332. By the SPEAKER: Petition of the City Council of the City of Westminster, Calif., petitioning consideration of their resolution with reference to protesting Federal income taxation of interest derived from public bonds; to the Committee on the Judiciary.

333. Also, petition of the City Council of El Monte, Calif., petitioning consideration of their resolution with reference to opposing taxation of interest on public bonds; to the Committee on the Judiciary.

334. Also, petition of the Board of Supervisors of Stanislaus County, Modesto, Calif., petitioning consideration of their resolution with reference to S. 2776 and H.R. 7665, bills authorizing Federal construction of a New Melones Dam on the Stanislaus River, Calif., and requesting no action to be taken until local hearings have been held and reports made thereon; to the Committee on Public Works.

335. Also, petition of the City Council of Philadelphia, Pa., petitioning consideration of their resolution with reference of the enactment of the Anderson-King bill (S. 909-H.R. 4222) amending the Social Security Act to include medical care for the aged; to the Committee on Ways and Means.

SENATE

MONDAY, MAY 7, 1962

The Senate met at 12 o'clock meridian, and was called to order by the President pro tempore.

Rev. Robert T. L. Liston, D.D., president, King College, Bristol, Tenn., offered the following prayer:

Almighty God our Father, Thou hast made us for Thyself, and our hearts must ever be restless until we find our repose in Thee. And so we know that from Thee to turn is to fall; to Thee to turn is to rise; in Thee to abide is to stand fast forever.

As we have turned from Thee we have made a world of pain and sin and darkness, in what might have been and ought to have been a garden of beauty, a city of light.

Today help us to lift our eyes from our sordid world of sin and believe in the possibility of righteousness and happiness for all men.

Today help us to be loyal to the cause of freedom, yet to be generous and merciful with all men, and to remember that we belong to the Prince of Peace.

We pray in His name. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Friday, May 4, 1962, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on May 1, 1962, the President had approved and signed the act (S. 205) to amend the Communications Act of 1934 to establish a program of Federal matching grants for the construction of television broadcasting facilities to be used for educational purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 11413) to amend the Agricultural Act of 1961 to permit the planting of additional nonsurplus crops on diverted acreage, and it was signed by the President pro tempore.

LIMITATION OF DEBATE DURING MORNING HOUR

On request of Mr. MANSFIELD, and by unanimous consent, statements during the morning hour were ordered limited to 3 minutes.

ORDER DISPENSING WITH CALL OF THE CALENDER

Mr. MANSFIELD. Mr. President, I ask unanimous consent to dispense with the call of the calendar.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SUBCOMMITTEE MEETING DURING THE SESSION OF THE SENATE

On request of Mr. MANSFIELD, and by unanimous consent, the Subcommittee on Stockpiling of the Committee on Armed Services was authorized to meet during the session of the Senate today.

ORDER FOR ADJOURNMENT TO TOMORROW, AND FOR ADJOURNMENT TOMORROW TO WEDNESDAY AT 11 O'CLOCK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand adjourned until 12 o'clock noon tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns tomorrow, it stand adjourned to meet at 11 o'clock on Wednesday.

The PRESIDENT pro tempore. Without objection, it is so ordered.

JAMES M. NORMAN—LITERACY FOR VOTING—PETITION FOR CLOTURE

Mr. MANSFIELD. Mr. President, I send to the desk a cloture petition.

The PRESIDENT pro tempore. If there be no objection, following the usual custom, and not the rule itself, the Chair will ask the clerk to state the motion to the Senate. Is there objection?

The Chair hears none, and the clerk will proceed to state the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the substitute amendment proposed by Mr. MANSFIELD (for himself and Mr. DIRKSEN) to the bill (H.R. 1361) for the relief of James M. Norman.

MIKE MANSFIELD.
EVERETT M. DIRKSEN.
HUBERT H. HUMPHREY.
THOMAS H. KUCHEL.
JOHN O. PASTORE.
JACOB K. JAVITS.
EDMUND S. MUSKIE.
KENNETH B. KEATING.
LEE METCALF.
CLIFFORD P. CASE.
BENJAMIN A. SMITH II.
PHILIP A. HART.
MAURINE B. NEUBERGER.
JENNINGS RANDOLPH.
PAUL H. DOUGLAS.
PRESCOTT BUSH.
JOSEPH S. CLARK.
CLAIBORNE PELL.
FRANK E. MOSS.
STEPHEN M. YOUNG.
PAT MCNAMARA.
HIRAM L. FONG.
HUGH SCOTT.
GORDON ALLOTT.
JOHN A. CARROLL.
J. GLENN BEALL.
VANCE HARTKE.
CLAIR ENGLE.
FRANK J. LAUSCHE.

Mr. MANSFIELD subsequently said: Mr. President, due to an error on my part the distinguished Senator from Oregon [Mr. MORSE] was not afforded the opportunity he was supposed to have had to sign the motion to invoke cloture before it was presented. I must apologize to the Senator, and at this time I ask unanimous consent that the name of the senior Senator from Oregon [Mr. MORSE] be added to the list of those who have signed the motion for cloture.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MORSE. I thank the majority leader.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the name of the Senator from New Jersey [Mr. WILLIAMS] be added to the list of Senators who have signed the motion for cloture.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

No further action will be taken on the motion until 1 hour after the Senate meets on Wednesday next, provided the Senate is in session tomorrow.

Mr. MANSFIELD. Mr. President, I hope the Senate will indulge me beyond the 3 minutes agreed to for statements in the morning hour today, because I want to make a statement about the petition now pending at the desk.

Mr. President, I present today, on behalf of the distinguished minority leader, myself, and other Senators—including the majority whip, and the minority whip—a motion to bring debate to an end on the pending amendment. Under rule 22 this motion will be voted on 1 hour after the Senate convenes on Wednesday. Thus, a vote will come on the cloture motion 14 days after the Senate first began to debate the literacy test amendment.

In presenting this motion, I address myself to several matters that bear on the desirability of terminating debate on the pending amendment. Some of these matters—particularly the use and abuse of free debate—I discussed on bringing the amendment before the Senate 14 days ago. I declared then my interest in having this question debated fully, with every Senator being given an opportunity to express himself either for or against the amendment. I announced that, so far as the leadership was concerned, there would be no test of physical endurance; the Senate would adjourn each day at a reasonable hour, if Members so desired.

Since April 25 we have heard a number of informative speeches on the wisdom, or lack of it, incorporated in the amendment. I must pay tribute to those who raised searching questions about the language of the bill, or about its policy; the opportunity to speak on the bill was not used irresponsibly.

But after consultation with the minority leader, it is my belief that the debate has proceeded long enough. There has been no great pressure for time to speak on the bill. So it is the leadership's assumption that the principal arguments have been made. That is, after all, the purpose of free debate in the Senate: to allow time for every relevant argument to be made and explored—not to paralyze the legislative branch of the Government. That purpose holds, whether the debate is on questions of national defense, agriculture, civil rights, or whatever. The Senate rules do not provide for action, after debate, on all other issues except civil rights. If members believe I am right about this, they should, in my judgment, be prepared to invoke cloture on Wednesday. Certainly, the leadership is prepared to do so. And I take this occasion to pay my respects to the distinguished minority leader—indeed, to the entire leadership on the other side of the aisle in this matter. The minority leader has been a tower of strength in this situation. He has sensed the existence of an injustice in the voting situation, and he has done all in his power to see to it that the Senate does its part in righting it. From the outset he has cooperated in every way to bring this issue to a decision on its merits. And if the Senate decides to bring that to pass, I want the RECORD to show that much of the credit belongs to the fair-minded statesman from Illinois [Mr. DIRKSEN].

To the great credit of the Senate, this body has shown itself capable of dealing with civil rights questions in the past, and of extending the protection afforded to all Americans against the unconscionable deprivation of those rights. We passed, in 1957, the first civil rights measure in 85 years. We strengthened that measure by amendments in 1960. Since then we have received a report from the Commission on Civil Rights—which was, I remind Senators, created by act of Congress in 1957—on certain practices that constitute outrageous violations of the right to vote. In 129 counties the Commission received complaints that so-called literacy tests, or interpretation tests, or citizenship tests, or whatever they are called in different places, were being employed systematically to cheat qualified citizens out of their right to vote. The Commission investigated a number of these complaints, and held extensive hearings in the States affected, wherein the officials accused of this cheating presented testimony. That record is available to all Members of the Senate. So is the Commission's recommendation for dealing with the problem—a recommendation concurred in by every member of the Commission, northern and southern; a recommendation that is before us in legislative form today, as the Mansfield-Dirksen amendment.

Mr. President, I am not a lawyer, and therefore I will not present an extensive legal brief on the constitutionality of the amendment. But as an interested observer, I should like to make a comment on the two principal legal arguments of those who oppose the amendment: first, that the amendment is unnecessary, there being sufficient means at hand, under the 1957 and 1960 acts, to protect citizens in their right to vote by individual court actions; second, that the States have the unqualified power to set the qualifications of voters.

As to the first argument, our experience to date shows that even the most blatant form of discrimination through the unfair use of literacy tests may require the most protracted litigation before a remedy is achieved. The case of United States against Theron C. Lynd, et alios, is an example of the delays we may expect where individual law suits are brought in an effort to enfranchise various voter groups. I ask unanimous consent that a letter written to me by Mr. Katzenbach, the acting Deputy Attorney General, describing the course of litigation in United States against Theron C. Lynd, be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HON. MIKE MANSFIELD,
U.S. Senate, Washington, D.C.

DEAR SENATOR MANSFIELD: You have requested information concerning the Department's experience in bringing suit under the Civil Rights Acts of 1957 and 1960 against the voting registrar of Forrest County, Mississippi. *United States* v. *Theron C. Lynd, et al.* Following is the procedural history of that case.

1. On August 11, 1960, the Attorney General formally requested Mr. Theron C. Lynd, voting registrar of Forrest County, to make the registration records of the county available for inspection and copying under title III of the Civil Rights Act of 1960. This request was not honored.

2. On January 19, 1961, the Department of Justice filed an enforcement proceeding in the District Court for the Southern District of Mississippi to require production of the records.

3. On July 6, 1961—the records not having been produced—the Department brought suit under the Civil Rights Acts of 1957 and 1960 to enjoin Mr. Lynd from discriminatory practices against Negro voters—such as the application of different and more stringent standards to Negroes than to white persons in determining their qualifications to vote—and also moved for discovery of the voting records under rule 34 of the Federal Rules of Civil Procedure.

4. On August 14, 1961, a hearing was held on the rule 34 motion but adjourned without decision.

5. On September 25, 1961, the court ordered the Government to amend its complaint giving full details as to the name of each Negro who had been refused the right to register, the dates involved in any discriminatory mishandling of any Negro registration applications, the names of white persons allowed to register who possessed no better qualifications than Negroes denied the same privilege, and other facts and circumstances showing discrimination in each instance.

6. Subsequently, the court sustained objections by the defendants to any incidents of discrimination occurring prior to February 26, 1959, the beginning of Mr. Lynd's term of office, and as a result 23 of the 63 Negroes whose names had been supplied by an amendment to the complaint were eliminated.

7. In addition to the demands for records described above, the Government twice attempted to obtain the registration records of Forrest County by subpenas served on defendant Lynd, but both subpenas were quashed by the court.

8. On February 16, 1962, the court ruled that by filing a rule 34 motion in the injunction proceeding the Government abandoned its title III enforcement suit.

9. On March 5, 1962, the injunction hearing finally came on for trial, although the Government had not obtained access to any of the Forrest County records. The court did order production of some of the records pertaining to Negro witnesses when it became apparent that the defendant had these records in the courtroom. The court also ordered records concerning white witnesses turned over to the Government, but ruled that the Government could see them only after its case was completed. The court refused to permit any testimony concerning matters which were not pleaded in detail in the complaint. The requested details were then supplied by oral amendment of the complaint, and the court ruled that the defendants could have 30 days in which to answer the amendment.

10. At the conclusion of the hearing on March 7, 1962, the court refused to grant the requested temporary injunction. The Government appealed.

11. On April 10, 1962, the Court of Appeals for the Fifth Circuit granted the Government's motion for an injunction pending disposition of the appeal on the merits. The court generally enjoined discrimination by the registrar and it specifically enjoined Mr. Lynd from administering the constitutional interpretation test to Negro applicants by including as sections to be read and interpreted any sections other than those which at the time of the trial had been used for white applicants.

12. On April 30, 1962, the Government brought a contempt action against Registrar Lynd for violation of the order of the court of appeals. The Government's petition alleged that Registrar Lynd, after notice of the judgment and orders of the appellate court, continued his discriminatory practices; that he required Negro applicants to read and interpret sections of the Missis-

sippi Constitution different from those submitted to white applicants for interpretation; that he rejected every Negro applicant who had applied for registration; and that among the many Negro applicants rejected for alleged failure to read or interpret a section of the State constitution were five college graduates, one of whom had been awarded a National Science Foundation scholarship at Cornell.

Sincerely yours,

NICHOLAS deB. KATZENBACH,
Acting Deputy Attorney General.

Mr. MANSFIELD. Mr. President, today, 21 months after the Justice Department requested that Mr. Lynd make available his registration records for inspection under the Civil Rights Act of 1960, the qualified Negro citizens of Forrest County, Miss., remain unregistered. Of course, the 1957 and 1960 acts are useful; but in cases such as this one it seems apparent that, if there is another, more direct remedy within the constitutional powers of Congress to bestow, we should enact it. We have not always left our citizens in the toils of legal procedure, before providing them with a simple legislative remedy. I remind Senators that the first major bill we considered this session was the so-called Du Pont bill, in which the Senate granted a number of corporate shareholders what we considered equitable relief, prior to the resolution of the question in the Chicago district court. Where were the arguments, then, that we should let the courts do it? If the Senate then had a concern, with the courts and the executive branch, in doing justice to property rights, who would deny that it has an equal concern, with the courts and the executive branch, in seeing to it that justice prevails in the human right to vote?

Another major argument expressed against the bill is that the States have the exclusive power to set the qualifications of voters, under article I, section 2, of the Constitution, and under the 17th amendment. Those who rely on these sections of the Constitution must acknowledge, however, that this power of the States cannot escape the injunctions of the 14th and 15th amendments. In a recent case before the U.S. Supreme Court a similar claim for unrestricted State power in the matter of drawing municipal boundaries was struck down. The unanimous opinion of the Court—and let me say that I refer to the pro-American Supreme Court of the United States and to its pro-American members—held that the State's power could not be used for the clear purpose of denying qualified Negro citizens the right to vote, in violation of the 15th amendment. I ask unanimous consent that the opinion of the Court in the case of *Gomillion* v. *Lightfoot*, 364 U.S. 339, decided in 1960, be printed in the RECORD at this point in my remarks.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

GOMILLION ET AL. *v.* LIGHTFOOT, MAYOR OF TUSKEGEE, ET AL.

(Certiorari to the U.S. Court of Appeals for the Fifth Circuit—No. 32—Argued October 18–19, 1960; decided November 14, 1960)

Negro citizens sued in a Federal District Court in Alabama for a declaratory judgment that an Act of the State Legislature changing the boundaries of the city of Tuskegee is unconstitutional and for an injunction against its enforcement. They alleged that the Act alters the shape of Tuskegee from a square to an irregular 28-sided figure; that it would eliminate from the City all but four or five of its 400 Negro voters without eliminating any white voter; and that its effect was to deprive Negroes of their right to vote in Tuskegee elections on account of their race. The District Court dismissed the complaint, on the ground that it had no authority to declare the Act invalid or to change any boundaries of municipal corporations fixed by the State Legislature. Held: It erred in doing so, since the allegations, if proven, would establish that the inevitable effect of the Act would be to deprive Negroes of their right to vote on account of their race, contrary to the Fifteenth Amendment. Pp. 340–348.

(a) Even the broad power of a State to fix the boundaries of its municipalities is limited by the Fifteenth Amendment, which forbids a State to deprive any citizen of the right to vote because of his race. (*Hunter* v. *Pittsburgh*, 207 U.S. 161, and related cases distinguished, pp. 342–345.)

(b) A state statute which is alleged to have the inevitable effect of depriving Negroes of their right to vote in Tuskegee because of their race is not immune to attack simply because the mechanism employed by the Legislature is a "political" redefinition of municipal boundaries. (*Colegrove* v. *Green*, 328 U.S. 549, distinguished. Pp. 346–348.) (270 F. 2d 594, reversed.)

Fred D. Gray and Robert L. Carter argued the cause for petitioners. With them on the brief was Arthur D. Shores.

Philip Elman argued the cause for the United States, as amicus curiae, urging reversal. With him on the brief were Solicitor General Rankin, Assistant Attorney General Tyler, Daniel M. Friedman, Harold H. Greene, D. Robert Owen and J. Harold Flannery, Jr.

James J. Carter argued the cause for respondents. With him on the brief were Thomas B. Hill, Jr., and Harry D. Raymon.

OPINION OF THE COURT

Mr. Justice Frankfurter delivered the opinion of the Court.

This litigation challenges the validity, under the U.S. Constitution, of Local Act No. 140, passed by the Legislature of Alabama in 1957, redefining the boundaries of the city of Tuskegee. Petitioners, Negro citizens of Alabama who were, at the time of this redistricting measure, residents of the city of Tuskegee, brought an action in the U.S. District Court for the Middle District of Alabama for a declaratory judgment that Act 140 is unconstitutional, and for an injunction to restrain the mayor and officers of Tuskegee and the officials of Macon County, Ala., from enforcing the act against them and other Negroes similarly situated. Petitioners' claim is that enforcement of the statute, which alters the shape of Tuskegee from a square to an uncouth 28-sided figure, will constitute a discrimination against them in violation of the due process and equal protection clauses of the 14th amendment to the Constitution and will deny them the right to vote in defiance of the 15th amendment.

The respondents moved for dismissal of the action for failure to state a claim upon which relief could be granted and for lack of jurisdiction of the District Court. The court granted the motion, stating, "This Court has no control over, no supervision over, and no power to change any boundaries of municipal corporations fixed by a duly convened and elected legislative body, acting for the people in the State of Alabama." 167 F. Supp. 405, 410. On appeal, the Court of Appeals for the Fifth Circuit, affirmed the judgment, one judge dissenting. 270 F. 2d 594. We brought the case here since serious questions were raised concerning the power of a State over its municipalities in relation to the Fourteenth and Fifteenth Amendments. 362 U.S. 916.

At this stage of the litigation we are not concerned with the truth of the allegations, that is, the ability of petitioners to sustain their allegations by proof. The sole question is whether the allegations entitle them to make good on their claim that they are being denied rights under the United State Constitution. The complaint, charging that Act 140 is a device to disenfranchise Negro citizens, alleges the following facts: Prior to Act 140 the City of Tuskegee was square in shape; the Act transformed it into a strangely irregular twenty-eight-sided figure as indicated in the diagram appended to this opinion. The essential inevitable effect of this redefinition of Tuskegee's boundaries is to remove from the city all save only four or five of its 400 Negro voters while not removing a single white voter or resident. The result of the Act is to deprive the Negro petitioners discriminatorily of the benefits of residence in Tuskegee, including, inter alia, the right to vote in municipal elections.

These allegations, if proven, would abundantly establish that Act 140 was not an ordinary geographic redistricting measure even within familiar abuses of gerrymandering. If these allegations upon a trial remained uncontradicted or unqualified, the conclusion would be irresistible, tantamount for all practical purposes to a mathematical demonstration, that the legislation is solely concerned with segregating white and colored voters by fencing Negro citizens out of town so as to deprive them of their pre-existing municipal vote.

It is difficult to appreciate what stands in the way of adjudging a statute having this inevitable effect invalid in light of the principles by which this Court must judge, and uniformly has judged, statutes that, howsoever speciously defined, obviously discriminate against colored citizens. "The (Fifteenth) Amendment nullifies sophisticated as well as simple-minded modes of discrimination." (*Lane* v. *Wilson*, 307 U.S. 268, 275.)

The complaint amply alleges a claim of racial discrimination. Against this claim the respondments have never suggested, either in their brief or in oral argument, any countervailing municipal function which Act 140 is designed to serve. The respondents invoke generalities expressing the State's unrestricted power—unlimited, that is, by the United States Constitution—to establish, destroy, or reorganize by contraction or expansion its political subdivisions, to wit, cities, counties, and other local units. We freely recognize the breadth and importance of this aspect of the State's political power. To exalt this power into an absolute is to misconceive the reach and rule of this Court's decisions in the leading case of *Hunter* v. *Pittsburgh*, 207 U.S. 161, and related cases relied upon by respondents.

The *Hunter* case involved a claim by citizens of Allegheny, Pennsylvania, that the General Assembly of that State could not direct a consolidation of their city and Pittsburgh over the objection of a minority of the Allegheny voters. It was alleged that while Allegheny already had made numerous civic improvements, Pittsburgh was only then planning to undertake such improvements, and that the annexation would therefore greatly increase the tax burden on Allegheny residents. All that the case held was (1) that there is no implied contract between a city and its residents that their taxes will be spent solely for the benefit of that city, and (2) that a citizen of one municipality is not deprived of property without due process of law by being subjected to increased tax burdens as a result of the consolidation of his city with another. Related cases, upon which the respondents also rely, such as *Trenton* v. *New Jersey*, 262 U.S. 182; *Pawhuska* v. *Pawhuska Oil Co.*, 250 U.S.

394; and *Laramie County* v. *Albany County*, 92 U.S. 307, are far off the mark. They are authority only for the principle that no constitutionally protected contractual obligation arises between a State and its subordinate government entities solely as a result of their relationship.

In short, the cases that have come before this Court regarding legislation by States dealing with their political subdivisions fall into two classes: (1) those in which it is claimed that the State, by virtue of the prohibition against impairment of the obligation of contract (Art. I, §10) and of the Due Process Clause of the Fourteenth Amendment, is without power to extinguish, or alter the boundaries of, an existing municipality; and (2) in which it is claimed that the State has no power to change the identity of a municipality whereby citizens of a pre-existing municipality suffer serious economic disadvantage.

Neither of these claims is supported by such a specific limitation upon State power as confines the States under the Fifteenth Amendment. As to the first category, it is obvious that the creation of municipalities—clearly a political act—does not come within the conception of a contract under the *Dartmouth College* case. 4 Wheat. 518. As to the second, if one principle clearly emerges from the numerous decisions of this Court dealing with taxation it is that the Due Process Clause affords no immunity against mere inequalities in tax burdens, nor does it afford protection against their increase as an indirect consequence of a State's exercise of its political powers.

Particularly in dealing with claims under broad provisions of the Constitution, which derive content by an interpretive process of inclusion and exclusion, it is imperative that generalizations, based on and qualified by the concrete situations that gave rise to them, must not be applied out of context in disregard of variant controlling facts. Thus, a correct reading of the seemingly unconfined dicta of *Hunter* and kindred cases is not that the State has plenary power to manipulate in every conceivable way, for every conceivable purpose, the affairs of its municipal corporations, but rather that the State's authority is unrestrained by the particular prohibitions of the Constitution considered in those cases.

The *Hunter* opinion itself intimates that a state legislature may not be omnipotent even as to the disposition of some types of property owned by municipal corporations, 207 U.S., at 178–181. Further, other cases in this Court have refused to allow a State to abolish a municipality, or alter its boundaries, or merge it with another city, without preserving to the creditors of the old city some effective recourse for the collection of debts owed them. *Shapleigh* v. *San Angelo*, 167 U.S. 646; *Mobile* v. *Watson*, 116 U.S. 289; *Mount Pleasant* v. *Beckwith*, 100 U.S. 514; *Broughton* v. *Pensacola*, 93 U.S. 266. For example, in *Mobile* v. *Watson* the Court said:

"Where the resource for the payment of the bonds of a municipal corporation is the power of taxation existing when the bonds were issued, any law which withdraws or limits the taxing power and leaves no adequate means for the payment of the bonds is forbidden by the Constitution of the United States, and is null and void." *Mobile* v. *Watson, supra*, 116 U.S., at 305.

This line of authority conclusively shows that the Court has never acknowledged that the States have power to do as they will with municipal corporations regardless of consequences. Legislative control of municipalities, no less than other state power, lies within the scope of relevant limitations imposed by the United States Constitution. The observation in *Graham* v. *Folsom*, 200 U.S. 248, 253, becomes relevant: "The power of the State to alter or destroy its corporations is not greater than the power of the State to repeal its legislation." In that case, which involved the attempt by state officials to evade the collection of taxes to discharge the obligations of an extinguished township, Mr. Justice McKenna, writing for the Court, went on to point out, with reference to the *Mount Pleasant* and *Mobile* cases:

"It was argued in those cases, as it is argued in this, that such alteration or destruction of the subordinate governmental divisions was a proper exercise of legislative power, to which creditors had to submit. The argument did not prevail. It was answered, as we now answer it, that such power, extensive though it is, is met and overcome by the provision of the Constitution of the United States which forbids a State from passing any law impairing the obligation of contracts." (200 U.S., at 253–254.)

If all this is so in regard to the constitutional protection of contracts, it should be equally true that, to paraphrase, such power, extensive though it is, is met and overcome by the Fifteenth Amendment to the Constitution of the United States, which forbids a State from passing any law which deprives a citizen of his vote because of his race. The opposite conclusion, urged upon us by respondents, would sanction the achievement by a State of any impairment of voting rights whatever so long as it was cloaked in the garb of the realignment of political subdivisions. "It is inconceivable that guaranties embedded in the Constitution of the United States may thus be manipulated out of existence." (*Frost & Frost Trucking Co.* v. *Railroad Commission of California*, 271 U.S. 583, 594.)

The respondents find another barrier to the trial of this case in *Colegrove* v. *Green*, 328 U.S. 549. In that case the Court passed on an Illinois law governing the arrangement of congressional districts within that State. The complaint rested upon the disparity of population between the different districts which rendered the effectiveness of each individual's vote in some districts far less than in others. This disparity came to pass solely through shifts in population between 1901, when Illinois organized its congressional districts, and 1946, when the complaint was lodged. During this entire period elections were held under the districting scheme devised in 1901. The Court affirmed the dismissal of the complaint on the ground that it presented a subject not meet for adjudication.[1] The decisive facts in this case, which at this stage must be taken as proved, are wholly different from the considerations found controlling in *Colegrove*.

That case involved a complaint of discriminatory apportionment of congressional districts. The appellants in Colegrove complained only of a dilution of the strength of their votes as a result of legislative inaction over a course of many years. The petitioners here complain that affirmative legislative action deprives them of their votes and the consequent advantages that the ballot affords. When a legislature thus singles out a readily isolated segment of a racial minority for special discriminatory treatment, it violates the Fifteenth Amendment. In no case involving unequal weight in voting distribution that has come before the Court did the decision sanction a differentation on racial lines whereby approval was given to unequivocal withdrawal of the vote solely from colored citizens. Apart from all else, these considerations lift this controversy out of the so-called "political" arena and into the conventional sphere of constitutional litigation.

In sum, as Mr. Justice Holmes remarked, when dealing with a related situation, in *Nixon* v. *Herndon*, 273 U.S. 536, 540, "Of course the petition concerns political action," but "The objection that the subject matter of the suit is political is little more than a play upon words." A statute which is alleged to have worked unconstitutional deprivations of petitioners' rights is not immune to attack simply because the mechanism employed by the legislature is a redefinition of municipal boundaries. According to the allegations here made, the Alabama Legislature has not merely redrawn the Tuskegee city limits with incidental inconvenience to the petitioners; it is more accurate to say that it has deprived the petitioners of the municipal franchise and consequent rights and to that end it has incidentally changed the city's boundaries. While in form this is merely an act redefining metes and bounds, if the allegations are established, the inescapable human effect of this essay in geometry and geography is to despoil colored citizens, and only colored citizens, of their theretofore enjoyed voting rights. That was not *Colegrove* v. *Green*.

When a State exercises power wholly within the domain of state interest, it is insulated from Federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right. This principle has had many applications. It has long been recognized in cases which have prohibited a State from exploiting a power acknowledged to be absolute in an isolated context to justify the imposition of an "unconstitutional condition." What the Court has said in those cases is equally applicable here, viz, that "Acts generally lawful may become unlawful when done to accomplish an unlawful end, *United States* v. *Reading Co.*, 266 U.S. 324, 357, and a constitutional power cannot be used by way of condition to attain an unconstitutional result." (*Western Union Telegraph Co.* v. *Foster*, 247 U.S. 105, 114.) The petitioners are entitled to prove their allegations at trial.

For these reasons, the principal conclusions of the District Court and the Court of Appeals are clearly erroneous and the decision below must be reversed.

Mr. Justice Douglas, while joining the opinion of the Court, adheres to the dissents in *Colegrove* v. *Green*, 328 U.S. 549, and *South* v. *Peters*, 339 U.S. 276.

APPENDIX TO OPINION OF THE COURT

Mr. Justice Whittaker, concurring: "I concur in the Court's judgment, but not in the whole of its opinion. It seems to me that the decision should be rested not on the Fifteenth Amendment, but rather on the Equal Protection Clause of the Fourteenth Amendment to the Constitution. I am doubtful that the averments of the complaint, taken for present purposes to be true, show a purpose by Act No. 140 to abridge petitioners' 'right * * * to vote,' in the Fifteenth Amendment sense. It seems to me that the 'right * * * to vote' that is guaranteed by the Fifteenth Amendment is but the same right to vote as is enjoyed by all others within the same election precinct, ward or other political division. And, inasmuch as no one has the right to vote in a political division, or in a local election concerning only an area in which he does not reside, it would seem to follow that one's right to vote in Division A is not abridged by a redistricting that places his residence in Division B if he there enjoys the same voting privileges as all others in that Division, even though the redistricting was done by the State for the purpose of placing a racial group of citizens in Division B rather than A.

"But it does seem clear to me that accomplishment of a State's purpose—to use the

[1] Soon after the decision in the *Colegrove* case, Governor Dwight H. Green of Illinois in his 1947 biennial message to the legislature recommended a reapportionment. The legislature immediately responded, Ill. sess. laws 1947, p. 879, and in 1951 redistricted again. (Ill. sess. laws 1951, p. 1924.)

Court's phrase—of 'fencing Negro citizens out of' Division A and into Division B is an unlawful segregation of races of citizens, in violation of the Equal Protection Clause of the Fourteenth Amendment, *Brown* v. *Board of Education*, 347 U.S. 483; *Cooper* v. *Aaron*, 358 U.S. 1; and, as stated, I would think the decision should be rested on that ground—which, incidentally, clearly would not involve, just as the cited cases did not involve, the *Colegrove* problem."

Mr. MANSFIELD. Mr. President, clearly, the States do have the power to set the qualifications of voters. This power is, however, subject at least to the protective guarantees of the 14th and 15th amendments to the United States Constitution. The Congress has the power, and in my opinion the obligation, to make those amendments effective, by appropriate legislation, when it becomes clear that the right to vote is being denied—"whether by sophisticated or by simple-minded modes of discrimination."

Mr. President, we have the power and the duty to act in this matter. I appeal to my fellow Senators to join me in an effort to preserve the role of Congress in the protection of human rights—a role we share with the executive and judicial branches of Government, but which may atrophy through lack of use. Wise men in the Congress—from the North and South—have much to contribute to the appropriate resolution of great human issues; but we must act, if that wisdom is to make itself felt.

It is my hope and belief that the Senate can make this contribution within the framework of its present rules. The leadership has great faith in the individual wisdom and restraint of every Member of this body. Again, let me say, as I have said from the outset, I do not wish to prejudge the situation; but past experience on issues of this kind compels me to reiterate to the Senate the leadership's intentions with regard to the situation.

If the vote on Wednesday on the cloture motion is a majority, but less than the required two-thirds majority, the leadership will move to table its own measure, and then will vote against tabling. A vote against tabling at that time will be taken by the leadership as indicative of a desire to vote for the Mansfield-Dirksen amendment on its merits, after additional debate. If the vote against tabling, therefore, approaches a two-thirds majority, the leadership will continue to press this issue for a brief period, and then will move a second time for cloture. The attempt to invoke cloture may fail a second time; and, if so, this business will then be dropped for this session, insofar as the leadership is concerned.

But let me say, Mr. President, that if this is an accurate sequence of what is about to transpire, then a new issue will have become crystal clear: It will be clear that although a substantial majority indicates its inclination to vote on the merits of an issue, the rules of the Senate, even after the most full and time-consuming debate, can prevent that vote. Hence, the rules can deny to the Senate its full participation in the national resolution of this critical issue. And what the rules can do in the case of a civil-rights question, they can do on any other great national issue.

In that case, Mr. President, I think the duty of the leadership will be equally clear: It must, perforce, propose to the Senate, once again, early in the next session, that the rule for closing debate be altered to reduce the present requirement of a two-thirds majority for invoking cloture.

Mr. STENNIS and other Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Mississippi.

Mr. STENNIS. Mr. President, with great deference to the majority leader, I wish quickly to point out that the case to which he referred, from Forrest County, Miss., concerning the right of a colored person to vote, conclusively shows that there are already on the books laws by means of which there is a wide-open remedy to take care of cases of that kind.

In debate here, the Senator from Montana has presented, in an argument which sounds on its face very plausible, the citation of an actual case which seemingly would justify the imposition of cloture in the Senate, and, thereby, the passage of the pending measure. But further examination by him would have disclosed, as I have said, that this party is pursuing the remedy that already is available and on the lawbooks. It is adequate; it is complete; it acts quickly; and this matter has already been presented on its merits, on the sworn proof, as I recall, within the last few days before a Federal circuit court judge. Furthermore, if I am correctly informed, he is a judge who has served for almost 30 years, and is one of the outstanding district court judges of the Nation. His nomination was confirmed by the Senate; and under his obligation and his oath, when he considered that testimony, his judgment, his conclusion, and his opinion were that the plaintiffs did not make out a case. He may be wrong about that; I am not saying as to that. But certainly the case illustrates the judicial process.

The decision has been appealed to the circuit court of the district, which sits in New Orleans; and, if I am correctly informed, the case has been given a preference place on the docket, and presumably it will be quickly heard by the circuit court of appeals, upon the law and upon the evidence; and any party who loses there can go to the Supreme Court of the United States, of course, and the case can take its place there.

But certainly, rather than being an argument in favor of the imposition of cloture and the cutting off of debate and changing the rules of the Senate, it is, instead, an argument for the reasonableness and the effectiveness and the practicality of the laws already on the books.

Mr. President, I do not know whether the Senate is still proceeding in the morning hour——

Mr. RUSSELL. Mr. President, certainly we are not now proceeding in the morning hour.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Mississippi will state it.

Mr. STENNIS. Is the Senate still proceeding in the morning hour?

The PRESIDENT pro tempore. It is.

Mr. RUSSELL. Mr. President, I submit that it is not fair for any Senator, even the distinguished majority leader, to open up a subject of this kind and to speak for more than 3 minutes during the morning hour, and then to shut off any Senator who might wish to answer him.

Mr. MANSFIELD. Mr. President, I agree with the Senator from Georgia. I informed the Senate that, with the indulgence of Senators, I would speak for additional time, beyond the 3-minute limitation in the morning hour. Therefore, I ask unanimous consent that the Senator from Mississippi [Mr. STENNIS] may proceed for 5 additional minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SALTONSTALL. Mr. President——

The PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. MANSFIELD. Mr. President, I have made a request that the Senator from Mississippi [Mr. STENNIS] may be allowed to proceed for an additional 5 minutes.

Mr. SALTONSTALL. Mr. President, reserving the right to object——

Mr. BUSH. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, I had at least 8 or 10 minutes, and I think every other Senator is entitled to the same consideration. If the Presiding Officer gave that time to me, he ought to give it to other Senators.

Mr. STENNIS. I thank the Senator.

Mr. BUSH. Mr. President, reserving the right to object—and I shall not object—I agree with the "fair play" comment of the majority leader.

I think that after the Senator from Mississippi has had his opportunity to speak we should resume the morning hour, and I announce that I shall ask for the regular order at the conclusion of his remarks.

The PRESIDENT pro tempore. The Senator from Mississippi may proceed.

Mr. STENNIS. Mr. President, I thank the Senator. I will not impose upon the Senate. I shall require only about 3 minutes.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from Georgia.

Mr. RUSSELL. I should like to ask the Senator if it is not true that in both 1957 and in 1960 the Attorney General of the United States came to the Congress seeking legislation directed toward assuring the right to vote; that Congress passed it in both instances; and that the present Attorney General has made no real effort to apply that legislation before coming to the Congress and asking for entirely new laws, which would be more clearly violative of the Constitution of the United States than any bill presented in my time in the Senate?

Mr. STENNIS. The Senator is correct. The Attorney General came running to Capitol Hill, seeking additional legislation, and he said he could not proceed under the other legislation, though the Justice Department is proceeding under the other legislation.

Mr. RUSSELL. And he had not even tried.

Mr. STENNIS. The Senator is correct.

Mr. President, I am correctly advised that it was the veteran district court judge who decided the case in Forrest County.

Mr. President, by association the so-called civil rights issues and the question of imposing cloture in the Senate debate are often considered as being the same. This is grave error.

Cutting off Senate debate by imposing cloture, once begun, will easily be expanded to an imposition of cloture on all major matters coming before the Senate. The same end result will be hastened should rule XXII be changed to permit less than a two-thirds' vote to cut off Senate debate.

Further, it should be clearly understood that the questions involved concerning the cloture rule are not solely questions of defeating the passage of a bill or of aiding the passage of a bill. Due to the right of debate, a minority is often able to protect itself by forcing terms by way of amendments. If all groups were subject to an easy cloture, all would lose all bargaining power and would be at the mercy of a bare majority sentiment at any given time.

The Senate has played a major role in American history. Should we either adopt a cloture motion or drift into the habit of imposing cloture as a routine matter, then this major role of the Senate will certainly come to an end.

Recently the Senate has been falling into the habit of bypassing committees, attempting to withdraw bills from committees even before there is time for consideration, and otherwise disregarding the spirit of Senate rules, whose wisdom has long been established.

The Senate has attached proposed constitutional amendments to legislative bills, and now an endeavor is being made to attach a far-reaching voting qualifications bill to a mere private claims bill.

This trend not only will demote the Senate, but also detracts from the powers of the legislative branch of Government, as well as it affects the safety of our Nation.

Again, with great deference to our majority leader, the case he has cited with reference to the qualifications of electors does not contradict the position we have taken here over and over again, that Congress has no power—not any power—with reference to imposing or regulating or restricting or writing qualifications of electors. There is not one syllable of a holding by the Supreme Court of the United States which contradicts our position.

I thank the Senate for the time granted me.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 3 minutes.

Mr. SALTONSTALL. Mr. President, I offer an amendment to the amendment in the nature of a substitute proposed by the majority leader [Mr. MANSFIELD], for himself and the minority leader [Mr. DIRKSEN], to the bill H.R. 1361, for the relief of James M. Norman; and I ask unanimous consent that it be printed in the RECORD without being read.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 2, line 7, immediately after "private school" insert the following: "in which classes are taught primarily in the language used on the ballot or voting machine".

On page 2, beginning with line 11, strike out all down to and including line 21.

On page 2, line 22, strike out "(f)" and insert in lieu thereof "(e)".

On page 3, line 20, immediately after the word "school" insert the word "located".

On page 3, line 21, immediately before the period, insert the following: "and in which all classes (other than classes in languages) were taught primarily in the language, or one of the languages, used on the ballot or voting machine which would be used for voting by such person".

Mr. CHAVEZ obtained the floor.

Mr. RUSSELL. Mr. President, will the Senator yield for one moment?

Mr. CHAVEZ. I yield.

Mr. RUSSELL. I desire to serve notice that at the proper time, if this amendment is called up, I shall make a point under rule XXII that an amendment cannot be submitted after a motion for cloture has been filed. It has to be read prior to the time the cloture motion is filed.

Mr. SALTONSTALL. Mr. President, it is my understanding that an amendment can be offered prior to the cloture vote, which will come on Wednesday, and not prior to the filing of the motion. That is why I filed it at this time. That is my understanding of the parliamentary procedure.

Mr. CHAVEZ. Mr. President, I am handicapped, but I am very much interested in the debate.

Mr. SALTONSTALL. May I have a ruling, Mr. President?

The PRESIDENT pro tempore. The Parliamentarian informs the Chair it is usual to have an amendment printed to make it available, without its being read.

Mr. RUSSELL. Mr. President, I was listening, and I was prepared to make a point of order. I am sure the Senator from Massachusetts will agree that he asked to have the amendment printed in the RECORD.

Mr. SALTONSTALL. Mr. President, I asked to have the amendment printed in the RECORD. I was trying to save the time of the Senate by asking unanimous consent that the amendment be laid on the table. I said "printed in the RECORD."

Mr. CHAVEZ. I object.

Mr. SALTONSTALL. I meant to have the amendment printed and laid on the table without being read.

Mr. CHAVEZ. I object.

Mr. RUSSELL. Mr. President, I was sitting here prepared to raise a point of order if the Senator asked to have the amendment read. He did not ask to have it read; he asked to have it printed in the RECORD.

Mr. SALTONSTALL. The language I used is as the Senator says. I tried to save the Senate's time by asking unanimous consent that the amendment not be read. I think the Senator will agree that is what I said.

Mr. RUSSELL. I did not understand the Senator to say anything about saving time. He did ask to have the amendment printed.

Mr. SALTONSTALL. That is correct.

Mr. RUSSELL. Under rule XXII the amendment should have been read before the cloture motion was filed.

The PRESIDENT pro tempore. Without objection, the amendment will be printed in the RECORD.

Mr. CHAVEZ. Mr. President, I am interested in the issue before the Senate. I am against what Senators from the South desire. But I still believe that the rules of the Senate are sound. I wish to see every Senator have the right of full expression. Therefore, so far as I am concerned, I shall vote against cloture. I point out that I am a liberal. I ask any Senator, on either side of the aisle, Who has been more liberal than I? I am not a new liberal, but have been one for many years. I believe in the Senate. If the right of full debate in the Senate is killed, we shall thereby kill the Senate. I am against cloture.

Mr. TALMADGE. Mr. President, I commend the senior Senator from New Mexico on his very fine statement. The Senator from New Mexico is indeed a liberal. He is a liberal in the tradition of Bob La Follette, of George Norris, of Joseph O'Mahoney, and of many others I could mention, who have believed that the Senate should not gag its Members. It is most regrettable to see the effort on the part of the leadership of both parties to cut off debate in the Senate in order to pass a bill which would, in effect, repeal two different sections of the Constitution.

Mr. CHAVEZ. Mr. President, will the Senator yield?

Mr. TALMADGE. I am delighted to yield to my friend from New Mexico.

Mr. CHAVEZ. Mr. President, whether Senators will believe it or not, I think the position of the Senator from Georgia is wrong; nevertheless I want to give him the right to talk.

Mr. TALMADGE. I appreciate that statement of the Senator from New Mexico.

The issue we are dealing with is Federal laws that guarantee the right to vote. There are many statutes on the books on that subject already. In my hand I hold copies of 15 Federal laws protecting the right to vote. Six of those statutes are criminal and nine are civil. If that many Federal statutes do not guarantee and protect the right to vote, I do not know what would. Even if they were not sufficient, that would be no reason to repeal the Constitution of the

United States by congressional enactment.

I ask unanimous consent that copies of those 15 Federal statutes protecting the right to vote be printed at this point in the RECORD.

There being no objection, the Federal statutes were ordered to be printed in the RECORD, as follows:

FEDERAL STATUTES PROTECTING THE RIGHT TO VOTE

CRIMINAL PROVISIONS

"Conspiracy Against Rights of Citizens" (18 U.S.C.A. 241).

"Deprivation of Rights Under Color of Law" (18 U.S.C.A. 242).

"Intimidation of Voters" (18 U.S.C.A. 594).

"Interference With Voting by Officers of Government" (18 U.S.C.A. 595).

"Expenditures To Influence Voting" (18 U.S.C.A. 597).

"Deprivation of Employment or Other Benefit for Political Activity" (18 U.S.C.A. 601).

CIVIL PROVISIONS

"Deprivation of Right To Vote Based on Race, etc.; Injunction by Attorney General; Exhaustion of Remedies Not Required; Voting Referees; Orders Qualifying Persons To Vote; Contempt" (42 U.S.C.A. 1971).

"Interference With Freedom of Elections by Armed Forces" (42 U.S.C.A. 1972).

"Retention of Voting Records" (42 U.S.C.A. 1974).

"Commission on Civil Rights; Investigation of Reports Relating to Deprivation of Voting Rights" (42 U.S.C.A. 1975).

"Equal Rights Under the Law" (42 U.S.C.A. 1981).

"Actions for Deprivation of Rights Under Color of Law" (42 U.S.C.A. 1983).

"Conspiracies To Interfere With Civil Rights; Voting Rights" (42 U.S.C.A. 1985).

"Liability for Failure To Prevent Violation of Section 1985" (42 U.S.C.A. 1986).

"Prosecutions by Federal Officials of Violations of Civil Rights Statutes" (42 U.S.C.A. 1987).

Conspiracy against rights of citizens (18 U.S.C.A. 241):

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than $5,000 or imprisoned not more than ten years, or both. June 25, 1948, c. 645, 62 Stat. 696.

Deprivation of rights under color of law (18 U.S.C.A. 242):

Whoever, under color of any law, statute, ordinance, regulation, or custom, wilfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both. June 25, 1948, c. 645, 62 Stat. 696.

Intimidation of voters (18 U.S.C.A. 594):

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and Possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both. June 25, 1948, c. 645, 62 Stat. 720.

Interference by administrative employees of Federal, State, or Territorial governments (18 U.S.C.A. 595):

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Resident Commissioner from any Territory or Possession, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any State or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization. June 25, 1948, c. 645, 62 Stat. 720.

Expenditures to influence voting (18 U.S.C.A. 597):

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—

Shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than $10,000 or imprisoned not more than two years, or both. June 25, 1948, c. 645, 62 Stat. 721.

Deprivation of employment or other benefit for political activity (18 U.S.C.A. 601):

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support for, or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both. June 25, 1948, c. 645, 62 Stat. 721.

Voting rights—Race, color, or previous condition not to affect right to vote (42 U.S.C.A. 1971):

(a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

Intimidation, threats, or coercion:

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

Preventive relief; injunction; costs; State as party defendant.

(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

Jurisdiction; exhaustion of other remedies:

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

Order qualifying person to vote; application; hearing; voting referees; transmittal of report and order; certificate of qualification; definitions;

(e) In any proceedings instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for 1 year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law

the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

An application for an order pursuant to this subsection shall be heard within 10 days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by section 16 of title 5, to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within 10 days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court, and shall be payable by the United States.

Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed 20 or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within 20 days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of the subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in the subsection, the word "vote" includes all action necessary to make a vote effective including but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words "affected area" shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceedings to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

Contempt; assignment of counsel; witnesses:

(f) Any person cited for an alleged contempt under this act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel. As amended September 9, 1957, Public Law 85–315, part IV, section 131, 71 Stat. 637; May 6, 1960, Public Law 86–449, title VI, section 601, 74 Stat. 90.

Interference with freedom of elections (42 U.S.C.A. 1972):

No officer of the Army, Navy or Air Force of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. R.S. sec. 2003.

Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation (42 U.S.C.A. 1974):

Every officer of election shall retain and preserve, for a period of 22 months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both. Public Law 86–449, title III, section 301, May 6, 1960, 74 Stat. 88.

Theft, destruction, concealment, mutilation, or alteration of records or papers; penalties (sec. 1974a):

Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 1974 of this title to be retained and preserved shall be fined not more than $1,000 or imprisoned not more than one year, or both. Public Law 86–449, title III, section 302, May 6, 1960, 74 Stat. 88.

Demand for records or papers by Attorney General or representative; statement of basis and purpose (section 1974b):

Any record or paper required by section 1974 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or his representative. This demand shall contain a statement of the basis and the purpose therefor. Public Law 86–449, title III, section 303, May 6, 1960, 74 Stat. 88.

Disclosure of records or papers (section 1974c):

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this subchapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury. Public Law 84–449, title III, section 304, May 6, 1960, 74 Stat. 88.

Jurisdiction to compel production of records or papers (section 1974d):

The United States district court for the district in which a demand is made pursuant to section 1974b of this title, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper. Public Law 86-449, title III, section 305, May 6, 1960, 74 Stat. 88.

Definitions (section 1974e): As used in this subchapter, the term "officer of election" means any person who, under color of any Federal, State, Commonwealth, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requisite to voting in any general, special, or primary election at which votes are cast for candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico. Public Law 86-449, title III, section 306, May 6, 1960, 74 Stat. 88.

Commission on Civil Rights—Establishment (42 U.S.C.A. 1975):

(a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

Duties; reports; termination (sec. 1975c):

(a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution; and

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President and to the Congress at such times as either the Commission or the President shall deem desirable, and shall submit to the President and to the Congress a final and comprehensive report of its activities, findings, and recommendations not later than September 30, 1963.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist. Public Law 85-315, part I, section 104, September 9, 1957, 71 Stat. 635, amended Public Law 86-363, title IV, section 401, September 28, 1959, 73 Stat. 724; Public Law 87-264, title IV, section 401, September 21, 1961, 75 Stat. 559.

Equal rights under the law (42 U.S.C.A. 1981):

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other. R.S. sec. 1977.

Civil action for deprivation of rights (42 U.S.C.A. 1983):

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. R.S. sec. 1979.

Conspiracy to interfere with civil rights—Preventing officer from performing duties (42 U.S.C.A. 1985):

(1) If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

Obstructing justice; intimidating party, witness, or juror:

(2) If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit jury in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

Depriving persons of rights or privileges:

(3) If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators. R.S. sec. 1980.

Same; action for neglect to prevent (42 U.S.C.A. 1986):

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within 1 year after the cause of action has accrued. R.S. sec. 1981.

Prosecution of violation of certain laws (42 U.S.C.A. 1987):

The U.S. attorneys, marshals, and deputy marshals, the commissioners appointed by the district and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especialy empowered by the President, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of section 1990 of this title or of sections 5506-5516 and 5518-5532 of the Revised Statutes, and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense. R.S. sec. 1982; June 25, 1948, c. 646, sec. 1, 62 Stat. 909.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. BUSH. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. RUSSELL. I do not want the discussion to be taken out of the time available to the Senator from Georgia.

Mr. TALMADGE. I have not yet yielded.

Mr. RUSSELL. My colleague has not yielded for a parliamentary inquiry.

Mr. TALMADGE. I yield to the distinguished Senator from Georgia.

Mr. RUSSELL. Mr. President, I wish to ask the Senator if we do not always meet the same situation we find now? We are told, "If you do not let us pass the bill, we will change the cloture rule and gag the Senate by a simple majority." Would it make any difference whether we have rules concerning gagging if the Senate should undertake to amend, change, distort, and twist the Constitution of the United States by a simple majority on a proposed statute? What difference would it make what kind of rules we might have? The Senate would no longer be the Senate. It would have degenerated into chaos.

Mr. TALMADGE. I agree with my able colleague. If we should repeal the Constitution of the United States by congressional enactment, it would not make any difference whether we had Senate rules or not.

Mr. President, I yield the floor.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

AMENDMENT OF FEDERAL RESERVE ACT, RELATING TO EXTENSION OF AUTHORITY OF FEDERAL RESERVE BANKS TO PURCHASE U.S. OBLIGATIONS DIRECTLY FROM THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury (with accompanying papers); to the Committee on Banking and Currency.

REPORT OF RECREATIONAL BOATING IN THE UNITED STATES

A letter from the Acting Commandant, U.S. Coast Guard, Washington, D.C., transmitting, pursuant to law, a report on recreational boating in the United States, for the calendar year 1961 (with an accompanying report); to the Committee on Commerce.

ADJUSTMENT IN ANNUITIES UNDER FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

A letter from the Assistant Secretary of State, transmitting a draft of proposed legislation to provide for adjustments in the annuities under the Foreign Service retirement and disability system (with accompanying papers); to the Committee on Foreign Relations.

REPORT ON PERSONAL AND REAL PROPERTY DISPOSED OF TO PUBLIC HEALTH AND EDUCATIONAL INSTITUTIONS

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on personal property received by State surplus property agencies for distribution to public health and educational institutions and civil defense organizations, and real property disposed of to public health and educational institutions, for the quarterly period ended March 31, 1962 (with an accompanying report); to the Committee on Government Operations.

AMENDMENT OF UNITED STATES CODE, RELATING TO THE CONDITIONAL RELEASE OF CERTAIN PRISONERS

A letter from the Attorney General, transmitting a draft of proposed legislation to amend section 4204 of title 18, United States Code, relating to the conditional release of prisoners who are aliens subject to deportation (with an accompanying paper); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of Alaska; to the Committee on Commerce:

"SUBSTITUTE FOR HOUSE JOINT RESOLUTION 86

"Joint resolution relating to the CAB investigation and hearings on Alaska air carrier service

"Whereas the Civil Aeronautics Board has ordered a new investigation and hearings before an examiner to determine how many air carriers may continue to serve Alaska from the Pacific Northwest; and

"Whereas the Board has announced that on the basis of the investigation it will decide whether existing route licenses to and in Alaska will be changed, suspended, canceled, or renewed; and

"Whereas the preliminary recommendation of the Board to be considered at the hearings includes a merger of Pacific Northern Airlines and Alaska Airlines, a restriction on Alaska service by Northwest Airlines, and complete elimination from Alaska service of Pan American World Airways; and

"Whereas the recommendations if approved would lessen the present and expanding air service Alaska now needs for its continuing development and threaten this air-dependent State with a mainland-Alaska air carrier monopoly: Therefore be it

"Resolved by the Legislature of the State of Alaska in second legislature, second session assembled, That the Civil Aeronautics Board is requested to include hearings in Alaska in its order of March 19 for investigation and hearings on Alaska air carrier service to the end that members of the Board and other parties concerned may reassess the impact of the preliminary recommendations calling for a crippling blow to Alaska's vital air carrier service through the elimination of certain carriers and the monopolistic consolidation of others; and be it further

"Resolved, That copies of this resolution be sent to the Honorable John F. Kennedy, President of the United States; the Honorable Lyndon B. Johnson, Vice President of the United States and President of the Senate; the Honorable John W. McCormack, Speaker of the House of Representatives; the Honorable Alan S. Boyd, Chairman of the Civil Aeronautics Board, and the other members of the Board; and Members of the Alaska delegation in Congress.

"Passed by the house March 31, 1962.

"WARREN A. TAYLOR,
"Speaker of the House.

"Attest:

"ESTHER REED,
" Chief Clerk of the House.

"Passed by the senate April 6, 1962.

"FRANK PERATROVICH,
"President of the Senate.

"Attest:

"EVELYN K. STEVENS,
"Secretary of the Senate.

"Approved by the Governor April 17, 1962.

"WILLIAM A. EGAN,
"Governor of Alaska."

A joint resolution of the Legislature of the State of Alaska; to the Committee on Finance:

"HOUSE JOINT RESOLUTION 64

"Joint resolution relating to Federal income taxation of State and local bonds

"Whereas the State of Alaska and the political subdivisions thereof have in the past and are now currently engaged in financing, through the issuance of bonds, needed public improvements such as the building of schools, highways, water and sewer distribution systems and other projects for the promotion of the health, safety, and welfare of the people; and

"Whereas the interest income which the owner derives from such bonds has been and now is exempt from the imposition of any Federal income tax; and

"Whereas the Federal taxation of the interest of such bonds as income would result in the curtailment of construction of needed public improvements, and would result in either an increase of taxes imposed by the State of Alaska and any political subdivision thereof in order to pay higher interest costs, or the assumption by the Federal Government of the responsibility of financing such improvements; and

"Whereas there is currently a national movement to permit the imposition of the Federal income tax on the interest income from the bonds issued or to be issued by the several States and their political subdivisions: Be it

"Resolved by the Legislature of the State of Alaska in second legislature, second session assembled, That the President and the Congress of the United States be urged not to adopt any legislation which would subject the income from State and local bonds to a Federal tax; and be it further

"Resolved, That this resolution be mailed to the President and Vice President of the United States, the Speaker of the House of Representatives, and to the Senators and Representative representing this State in the Congress of the United States.

"Passed by the house April 2, 1962.

"WARREN A. TAYLOR,
"Speaker of the House.

"Attest:

"ESTHER REED,
"Chief Clerk of the House.

"Passed by the senate April 6, 1962.

"FRANK PERATROVICH,
"President of the Senate.

"Attest:

"EVELYN K. STEVENS,
"Secretary of the Senate.

"Approved by the Governor April 17, 1962.

"Certified true, full, and correct.

"WILLIAM A. EGAN,
"Governor of Alaska."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 4380. An act to quiet title and possession to an unconfirmed and located private land claim in the State of Louisiana (Rept. No. 1453); and

H.R. 10098. An act to authorize the exchange of certain lands at Antietam National Battlefield site (Rept. No. 1452).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

S.J. Res. 60. Joint resolution to establish the sesquicentennial commission for the celebration of the Battle of New Orleans, to authorize the Secretary of the Interior to acquire certain property within Chalmette National Historical Park, and for other purposes (Rept. No. 1451).

By Mr. METCALF, from the Committee on Interior and Insular Affairs, with amendments:

S. 2164. A bill to authorize the Secretary of the Interior to cooperate with the First World Conference on National Parks, and for other purposes (Rept. No. 1450).

REPORT OF JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES—FEDERAL PERSONNEL AND PAY

Mr. BYRD of Virginia. Mr. President, as chairman of the Joint Committee on Reduction of Nonessential Federal Expenditures, I submit a report on Federal employment and pay for the month of March 1962. In accordance with the practice of several years' standing, I ask unanimous consent to have the report printed in the RECORD, together with a statement by me.

There being no objection, the report and statement were ordered to be printed in the RECORD, as follows:

FEDERAL PERSONNEL IN EXECUTIVE BRANCH, MARCH AND FEBRUARY 1962, AND PAY, FEBRUARY AND JANUARY 1962

PERSONNEL AND PAY SUMMARY

(See table I)

Information in monthly personnel reports for March 1962 submitted to the Joint Committee on Reduction of Nonessential Federal Expenditures is summarized as follows.

Tota and major categories	Civilian personnel in executive branch			Payroll (in thousands) in executive branch		
	In March numbered—	In February numbered—	Increase (+) or decrease (−)	In February was—	In January was—	Increase (+) or decrease (−)
Total [1]	2,441,800	2,436,725	+5,075	$1,098,949	$1,256,911	−$157,962
Agencies exclusive of Department of Defense	1,380,800	1,375,826	+4,974	608,210	704,461	−96,251
Department of Defense	1,061,000	1,060,899	+101	490,739	552,450	−61,711
Inside the United States	2,276,586	2,271,715	+4,871			
Outside the United States	165,214	165,010	+204			
Industrial employment	568,405	568,780	−375			
Foreign nationals	170,010	169,619	+391	25,039	[2] 25,816	−777

[1] Exclusive of foreign nationals shown in the last line of this summary.

[2] Revised on basis of later information.

Table I breaks down the above figures on employment and pay by agencies.

Table II breaks down the above employment figures to show the number inside the United States by agencies.

Table III breaks down the above employment figures to show the number outside the United States by agencies.

Table IV breaks down the above employment figures to show the number in industrial-type activities by agencies.

Table V shows foreign nationals by agencies not included in tables I, II, III, and IV.

TABLE I.—*Consolidated table of Federal personnel inside and outside the United States employed by the executive agencies during March 1962, and comparison with February 1962, and pay for January 1962, and comparison with February 1962*

Department or agency	Personnel				Pay (in thousands)			
	March	February	Increase	Decrease	February	January	Increase	Decrease
Executive departments (except Department of Defense):								
Agriculture	92,946	91,910	1,036		$39,177	$45,994		$6,817
Commerce [1]	29,196	28,923	273		15,699	17,683		1,984
Health, Education, and Welfare	74,577	73,852	725		35,057	36,726		1,669
Interior	55,135	54,308	827		27,288	30,467		3,719
Justice	30,873	30,883		10	17,761	20,427		2,666
Labor	8,264	8,138	126		4,233	4,665		432
Post Office	580,086	579,606	480		232,420	284,332		51,912
State [2 3]	39,429	39,223	206		18,405	19,350		945
Treasury	85,390	84,911	479		42,265	46,871		4,606
Executive Office of the President:								
White House Office	452	444	8		229	263		34
Bureau of the Budget	458	459		1	341	393		52
Council of Economic Advisers	46	46			36	45		9
Executive Mansion and Grounds	73	74		1	33	38		5
National Aeronautics and Space Council	18	16	2		15	16		1
National Security Council	42	42			31	34		3
Office of Emergency Planning	481	474	7		492	368	$124	
President's Commission on Campaign Costs	13	13			7	4	3	
Independent agencies:								
Advisory Commission on Intergovernmental Relations	32	26	6		16	16		
American Battle Monuments Commission	405	407		2	75	84		9
Atomic Energy Commission	6,809	6,809			4,483	4,998		515
Board of Governors of the Federal Reserve System	598	603		5	349	399		50
Civil Aeronautics Board	804	806		2	523	587		64
Civil Service Commission	3,895	3,855	40		2,099	2,339		240
Civil War Centennial Commission	6	6			4	6		2
Commission of Fine Arts	6	6			4	5		1
Commission on Civil Rights	63	60	3		34	36		2
Delaware River Basin Commission [4]	1		1					
Export-Import Bank of Washington	262	262			162	183		21
Farm Credit Administration	235	237		2	150	173		23
Federal Aviation Agency	43,637	43,558	79		25,271	29,678		4,407
Federal Coal Mine Safety Board of Review	7	7			4	4		
Federal Communications Commission	1,374	1,372	2		830	957		127
Federal Deposit Insurance Corporation	1,257	1,262		5	718	845		127
Federal Home Loan Bank Board	1,136	1,145		9	664	754		90
Federal Maritime Commission	150	149	1		98	110		12
Federal Mediation and Conciliation Service	359	357	2		273	315		42
Federal Power Commission	900	897	3		558	646		88
Federal Trade Commission	1,033	1,021	12		627	680		53
Foreign Claims Settlement Commission	63	63			41	47		6
General Accounting Office	4,677	4,725		48	2,620	3,031		411
General Services Administration	30,745	30,725	20		13,226	15,113		1,887
Government Printing Office	6,916	6,862	54		3,522	3,845		323
Housing and Home Finance Agency	12,729	12,555	174		6,840	7,782		942
Indian Claims Commission	20	20			19	21		2
Interstate Commerce Commission	2,398	2,395	3		1,420	1,632		212
James Madison Memorial Commission	1	1			1	1		
National Aeronautics and Space Administration	20,950	[3] 20,312	638		14,289	13,185	1,104	
National Capital Housing Authority	415	416		1	168	199		31
National Capital Planning Commission	56	56			34	39		5
National Capital Transportation Agency	82	87		5	51	54		3
National Gallery of Art	321	314	7		116	135		19
National Labor Relations Board	1,838	1,857		19	1,119	1,283		164
National Mediation Board	142	143		1	113	124		11
National Science Foundation	861	787	74		434	494		60
Outdoor Recreation Resources Review Commission	30	41		11	24	29		5
Panama Canal	14,598	14,595	3		4,422	4,425		3
President's Committee on Equal Employment Opportunity	34	34			19	21		2
Railroad Retirement Board	2,092	2,101		9	1,013	1,164		151
Renegotiation Board	191	191			207	193	14	
St. Lawrence Seaway Development Corporation	157	159		2	86	103		17
Securities and Exchange Commission	1,242	1,226	16		721	826		105
Selective Service System	6,797	6,789	8		1,921	2,210		289
Small Business Administration	3,013	2,968	45		1,652	1,864		212
Smithsonian Institution	1,177	1,175	2		531	604		73
Soldier's Home	1,023	1,031		8	309	343		34

See footnotes at end of table.

TABLE I.—*Consolidated table of Federal personnel inside and outside the United States employed by the executive agencies during March 1962, and comparison with February 1962, and pay for January 1962, and comparison with February 1962*—Continued

Department or agency	Personnel				Pay (in thousands)			
	March	February	Increase	Decrease	February	January	Increase	Decrease
Independent agencies—Continued								
South Carolina, Georgia, Alabama, and Florida Water Study Commission	59	58	1		$38	$44		$6
Subversive Activities Control Board	29	27	2		21	23		2
Tariff Commission	270	269	1		175	197		22
Tax Court of the United States	146	148		2	103	113		10
Tennessee Valley Authority	18,333	18,267	66		9,891	11,130		1,239
Texas Water Study Commission	22	28		6	13	17		4
U.S. Arms Control and Disarmament Agency	75	74	1		44	42	$2	
U.S. Information Agency	10,992	11,012		20	4,186	4,733		547
Veterans' Administration	176,794	176,958		164	68,254	78,787		10,533
Virgin Islands Corporation	1,064	1,190		126	136	117	19	
Total, excluding Department of Defense	1,380,800	1,375,826	5,433	459	608,210	704,461	1,266	97,517
Net change, excluding Department of Defense			4,974				96,251	
Department of Defense:								
Office of the Secretary of Defense	1,817	1,784	33		1,245	1,393		148
Department of the Army	388,220	387,483	737		170,750	191,243		20,493
Department of the Navy	349,792	351,424		1,632	173,764	196,097		22,333
Department of the Air Force	307,752	307,136	616		138,640	157,442		18,802
Defense Atomic Support Agency	2,052	2,057		5	913	1,041		128
Defense Communications Agency	127	124	3		72	76		4
Defense Intelligence Agency	164	154	10		81	50	31	
Defense Supply Agency	9,807	9,487	320		4,477	4,197	280	
Office of Civil Defense	1,145	1,130	15		726	829		103
U.S. Court of Military Appeals	38	39		1	29	34		5
Interdepartmental Activities	36	31	5		18	19		1
International Military Activities	50	50			24	29		5
Total, Department of Defense	1,061,000	1,060,899	1,739	1,638	490,739	552,450	311	62,022
Net change, Department of Defense			101				61,711	
Grand total, including Department of Defense [6]	2,441,800	2,436,725	7,172	2,097	1,098,949	1,256,911	1,577	159,5
Net change, including Department of Defense			5,075				157,962	

[1] March figure includes 110 seamen on the rolls of the Maritime Administration and their pay.

[2] March figure includes 15,261 employees of the Agency for International Development as compared with 15,135 in February, and their pay. These AID figures include employees who are paid from foreign currencies deposited by foreign governments in a trust fund for this purpose. The March figure includes 3,822 of these trust fund employees and the February figure includes 3,424.

[3] March figure includes 497 employees of the Peace Corps as compared with 493 in February and their pay.

[4] New agency, created pursuant to Public Law 87-328.

[5] Revised on basis of later information.

[6] Exclusive of personnel and pay of the Central Intelligence Agency and the National Security Agency.

TABLE II.—*Federal personnel inside the United States employed by the executive agencies during March 1962, and comparison with February 1962*

Department or agency	March	February	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	91,860	90,813	1,047	
Commerce [1]	28,585	28,319	266	
Health, Education, and Welfare	74,066	73,348	718	
Interior	54,614	53,783	831	
Justice	30,532	30,545		13
Labor	8,162	8,054	108	
Post Office	578,668	578,206	462	
State [2 3]	10,033	9,926	107	
Treasury	84,784	84,306	478	
Executive Office of the President:				
White House Office	452	444	8	
Bureau of the Budget	458	459		1
Council of Economic Advisers	46	46		
Executive Mansion and Grounds	73	74		1
National Aeronautics and Space Council	18	16	2	
National Security Council	42	42		
Office of Emergency Planning	481	474	7	
President's Commission on Campaign Costs	13	13		
Independent agencies:				
Advisory Commission on Intergovernmental Relations	32	26	6	
American Battle Monuments Commission	10	10		
Atomic Energy Commission	6,776	6,778		2
Board of Governors of the Federal Reserve System	598	603		5
Civil Aeronautics Board	803	805		2
Civil Service Commission	3,892	3,853	39	
Civil War Centennial Commission	6	6		
Commission of Fine Arts	6	6		
Commission on Civil Rights	63	60	3	
Delaware River Basin Commission [4]	1		1	
Export-Import Bank of Washington	262	262		
Farm Credit Administration	235	237		2
Federal Aviation Agency	42,665	42,593	72	
Federal Coal Mine Safety Board of Review	7	7		
Federal Communications Commission	1,371	1,369	2	
Federal Deposit Insurance Corporation	1,255	1,260		5
Federal Home Loan Bank Board	1,136	1,145		9
Federal Maritime Commission	150	149	1	
Federal Mediation and Conciliation Service	359	357	2	
Federal Power Commission	900	897	3	
Federal Trade Commission	1,033	1,021	12	
Foreign Claims Settlement Commission	59	59		
General Accounting Office	4,606	4,658		52
General Services Administration	30,742	30,722	20	
Government Printing Offic	6,916	6,862	54	
Housing and Home Finance Agency	12,555	12,383	172	
Indian Claims Commission	20	20		
Interstate Commerce Commission	2,398	2,395	3	
James Madison Memorial Commission	1	1		
National Aeronautics and Space Administration	20,938	[5] 20,299	639	
National Capital Housing Authority	415	416		1
National Capital Planning Commission	56	56		
National Capital Transportation Agency	82	87		5
National Gallery of Art	321	314	7	
National Labor Relations Board	1,804	1,824		20
National Mediation Board	142	143		1
National Science Foundation	851	777	74	
Outdoor Recreation Resources Review Commission	30	41		11
Panama Canal	158	159		1
President's Commission on Equal Employment Opportunity	34	34		
Railroad Retirement Board	2,092	2,101		9
Renegotiation Board	191	191		
St. Lawrence Seaway Development Corporation	157	159		2
Securities and Exchange Commission	1,242	1,226	16	
Selective Service System	6,641	6,632	9	
Small Business Administration	2,969	2,926	43	
Smithsonian Institution	1,168	1,165	3	
Soldiers' Home	1,023	1,031		8
South Carolina, Georgia, Alabama, and Florida Water Study Commission	59	58	1	
Subversive Activities Control Board	29	27	2	
Tariff Commission	270	269	1	
Tax Court of the United States	146	148		2
Tennessee Valley Authority	18,326	18,260	66	
Texas Water Study Commission	22	28		6
U.S. Arms Control and Disarmament Agency	75	74	1	
U.S. Information Agency	2,992	2,981	11	
Veterans' Administration	175,772	175,932		160
Total, excluding Department o. Defense	1,319,749	1,314,770	5,297	318
Net increase, excluding Department of Defense			4,979	

See footnotes at end of table.

TABLE II.—*Federal personnel inside the United States employed by the executive agencies during March 1962, and comparison with February 1962*—Continued

Department or agency	March	February	Increase	Decrease
Department of Defense:				
Office of the Secretary of Defense	1,770	1,738	32	
Department of the Army	336,185	335,494	691	
Department of the Navy	326,138	327,631		1,493
Department of the Air Force	279,341	279,026	315	
Defense Atomic Support Agency	2,052	2,057		5
Defense Communications Agency	121	118	3	
Defense Intelligence Agency	164	154	10	
Defense Supply Agency	9,807	9,487	320	
Office of Civil Defense	1,145	1,130	15	
U.S. Court of Military Appeals	38	39		1
Department of Defense—Continued				
Interdepartmental Activities	35	30	5	
International Military Activities	41	41		
Total, Department of Defense	956,837	956,945	1,391	1,499
Net decrease, Department of Defense			108	
Grand total, including Department of Defense	2,276,586	2,271,715	6,688	1,817
Net increase, including Department of Defense			4,871	

[1] March figure includes 110 seamen on the rolls of the Maritime Administration.
[2] March figure includes 2,434 employees of the Agency for International Development as compared with 2,366 in February.
[3] March figure includes 446 employees of the Peace Corps as compared with 446 in February.
[4] New agency, created pursuant to Public Law 87-328.
[5] Revised on basis of later information.

TABLE III.—*Federal personnel outside the United States employed by the executive agencies during March 1962, and comparison with February 1962*

Department or agency	March	February	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	1,086	1,097		11
Commerce	611	604	7	
Health, Education, and Welfare	511	504	7	
Interior	521	525		4
Justice	341	338	3	
Labor	102	84	18	
Post Office	1,418	1,400	18	
State [1] [2]	29,396	29,297	99	
Treasury	606	605	1	
Independent agencies:				
American Battle Monuments Commission	395	397		2
Atomic Energy Commission	33	31	2	
Civil Aeronautics Board	1	1		
Civil Service Commission	3	2	1	
Federal Aviation Agency	972	965	7	
Federal Communications Commission	3	3		
Federal Deposit Insurance Corporation	2	2		
Foreign Claims Settlement Commission	4	4		
General Accounting Office	71	67	4	
General Services Administration	3	3		
Housing and Home Finance Agency	174	172	2	
National Aeronautics and Space Administration	12	13		1
National Labor Relations Board	34	33	1	
National Science Foundation	10	10		
Panama Canal	14,440	14,436	4	
Selective Service System	156	157		1
Independent agencies—Continued				
Small Business Administration	44	42	2	
Smithsonian Institution	9	10		1
Tennessee Valley Authority	7	7		
U.S. Information Agency	8,000	8,031		31
Veterans' Administration	1,022	1,026		4
Virgin Islands Corporation	1,064	1,190		126
Total excluding Department of Defense	61,051	61,056	176	181
Net decrease, excluding Department of Defense			5	
Department of Defense:				
Office of the Secretary of Defense	47	46	1	
Department of the Army	52,035	51,989	46	
Department of the Navy	23,654	23,793		139
Department of the Air Force	28,411	28,110	301	
Defense Communications Agency	6	6		
Interdepartmental Activities	1	1		
International Military Activities	9	9		
Total, Department of Defense	104,163	103,954	348	139
Net increase, Department of Defense			209	
Grand total, including Department of Defense	165,214	165,010	524	320
Net increase, including Department of Defense			204	

[1] March figure includes 12,827 employees of the Agency for International Development as compared with 12,769 in February. These AID figures include employees who are paid from foreign currencies deposited by foreign governments in a trust fund for this purpose. The March figure includes 3,822 of these trust fund employees and the February figure includes 3,424.
[2] March figure includes 51 employees of the Peace Corps as compared with 47 in February.

TABLE IV.—*Industrial employees of the Federal Government inside and outside the United States employed by the executive agencies during March 1962, and comparison with February 1962*

Department or agency	March	February	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	3,956	3,900	56	
Commerce	5,414	5,483		69
Interior	8,166	8,104	62	
Post Office	256	256		
Treasury	5,177	5,150	27	
Independent agencies:				
Atomic Energy Commission	247	247		
Federal Aviation Agency	1,885	1,875	10	
General Services Administration	1,730	1,706	24	
Government Printing Office	6,916	6,862	54	
National Aeronautics and Space Administration	20,950	20,312	638	
Panama Canal	7,478	7,511		33
St. Lawrence Seaway Development Corporation	123	126		3
Tennessee Valley Authority	15,391	15,360	31	
Virgin Islands Corporation	1,064	1,190		126
Total, excluding Department of Defense	78,753	78,082	902	231
Net increase, excluding Department of Defense			671	
Department of Defense:				
Department of the Army:				
Inside the United States	[1] 140,500	[2] 140,264	236	
Outside the United States	[1] 4,550	[2] 4,533	17	
Department of the Navy:				
Inside the United States	203,495	204,770		1,275
Outside the United States	455	454	1	
Department of the Air Force:				
Inside the United States	139,168	139,209		41
Outside the United States	1,484	1,468	16	
Total, Department of Defense	489,652	490,698	270	1,316
Net decrease, Department of Defense			1,046	
Grand total, including Department of Defense	568,405	568,780	1,172	1,547
Net decrease, including Department of Defense			375	

[1] Subject to revision.
[2] Revised on basis of later information.

TABLE V.—*Foreign nationals working under U.S. agencies overseas, excluded from tables I through IV of this report, whose services are provided by contractual agreement between the United States and foreign governments, or because of the nature of their work or the source of funds from which they are paid, as of March 1962 and comparison with February 1962*

Country	Total		Army		Navy		Air Force		National Aeronautics and Space Administration	
	March	February	March	February	March	February	March	February	March	February
Australia	1	1							1	1
Canada	36	36					36	36		
Crete	49	49					49	49		
England	3,389	3,549			82	81	3,307	3,468		
France	22,184	22,087	18,461	18,448	10	11	3,713	3,628		
Germany	81,195	80,851	68,283	68,028	84	85	12,828	12,738		
Greece	272	274					272	274		
Greenland	142	143					142	143		
Japan	53,213	53,034	18,845	18,728	14,432	[1] 14,353	19,936	19,953		
Korea	6,189	6,200	6,189	6,200						
Morocco	2,686	2,717			810	826	1,876	1,891		
Netherlands	54	52					54	52		
Norway		24						24		
Saudi Arabia	2	2					2	2		
Trinidad	598	600			598	600				
Total	170,010	169,619	111,778	111,404	16,016	15,956	42,215	42,258	1	1

[1] Revised on basis of later information.

STATEMENT BY MR. BYRD OF VIRGINIA

Executive agencies of the Federal Government reported civilian employment in the month of March totaling 2,441,800. This was a net increase of 5,075 compared with employment reported in the preceding month of February.

Civilian employment reported by the executive agencies of the Federal Government, by months in fiscal year 1962, which began July 1, 1961, follows:

Month	Employment	Increase	Decrease
1961—			
July	2,435,804	16,700	
August	2,445,078	9,274	
September	2,427,216		17,862
October	2,429,691	2,476	
November	2,437,709	8,018	
December	2,430,998		6,711
1962—			
January	2,428,691		2,307
February	2,436,725	8,034	
March	2,441,800	5,075	

Total Federal employment in civilian agencies for the month of March was 1,380,800, an increase of 4,974 compared with the February total of 1,375,826. Total civilian employment in the military agencies in March was 1,061,000, an increase of 101 as compared with 1,060,899 in February.

Civilian agencies reporting larger increases were Agriculture Department with 1,036 Interior Department with 827, Department of Health, Education, and Welfare with 725, and National Aeronautics and Space Administration with 638. Increases in Agriculture and Interior Departments were largely seasonal.

In the Department of Defense larger increases in civilian employment were reported by the Department of the Army with 737, Department of the Air Force with 616 and Defense Supply Agency with 320. The largest decrease was reported by the Department of the Navy with 1,632.

Inside the United States civilian employment increased 4,871 and outside the United States civilian employment increased 204. Industrial employment by Federal agencies in March totaled 568,405, a decrease of 375.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Nonessential Federal Expenditures.

FOREIGN NATIONALS

The total of 2,441,800 civilian employees certified to the Committee by Federal agencies in their regular monthly personnel reports includes some foreign nationals employed in U.S. Government activities abroad, but in addition to these there were 170,010 foreign nationals working for U.S. agencies overseas during March who were not counted in the usual personnel reports. The number in February was 169,619. A breakdown of this employment for March follows:

Country	Total	Army	Navy	Air Force	NASA
Australia	1				1
Canada	36			36	
Crete	49			49	
England	3,389		82	3,307	
France	22,184	18,461	10	3,713	
Germany	81,195	68,283	84	12,828	
Greece	272			272	
Greenland	142			142	
Japan	53,213	18,845	14,432	19,936	
Korea	6,189	6,189			
Morocco	2,686		810	1,876	
Netherlands	54			54	
Saudi Arabia	2			2	
Trinidad	598		598		
Total	170,010	111,778	16,016	42,215	1

EXTENSION OF TIME FOR JUDICIARY COMMITTEE TO FILE CERTAIN REPORTS

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the time for filing annual reports by the Committee on the Judiciary, pursuant to Senate Resolutions 48, 51, 53, 54, 55, 56, and 57, be extended to May 31, 1962.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REPORT ENTITLED "CONSTITUTIONAL RIGHTS"—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS (S. REPT. NO. 1455)

Mr. ERVIN subsequently said: Mr. President, from the Committee on the Judiciary, I ask unanimous consent to submit a report entitled "Constitutional Rights" pursuant to Senate Resolution 53, 87th Congress, 1st session, as extended, together with individual views.

I ask unanimous consent that this report, together with the individual views of the Senator from New York [Mr. KEATING] be printed.

The PRESIDENT pro tempore. Without objection, the report will be received and printed, as requested by the Senator from North Carolina.

REPORT ENTITLED "REVISION AND CODIFICATION" (S. REPT. NO. 1454)

Mr. ERVIN. Mr. President, from the Committee on the Judiciary, I submit a report entitled "Revision and Codification," pursuant to Senate Resolution 54, 87th Congress, 1st session, as extended.

The PRESIDENT pro tempore. Without objection, the report will be received and printed, as requested by the Senator from North Carolina.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 3260. A bill authorizing a survey of Puget Sound, Wash., and adjacent waters, including tributaries thereto, in the interest of flood control, navigation, and other water uses, and related land resources; to the Committee on Public Works.

By Mr. ERVIN (for himself, Mr. JOHNSTON, Mr. MCCLELLAN, Mr. CARROLL, Mr. LONG of Missouri, and Mr. HRUSKA):

S. 3261. A bill to protect the constitutional rights of certain individuals who are mentally ill, to provide for their care, treatment, and hospitalization, and for other purposes; to the Committee on the Judiciary.

(See the remarks of Mr. ERVIN when he introduced the above bill, which appear under a separate heading.)

By Mr. FONG:

S. 3262. A bill to amend the Vocational Rehabilitation Act to eliminate or modify certain Federal requirements that might otherwise prevent constructive reorganizations of the State agencies which are involved in the administration of the program under such act; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. FONG when he introduced the above bill, which appear under a separate heading.)

By Mr. BEALL:

S. 3263. A bill for the relief of Elmer Royal Fay, Sr.; to the Committee on the Judiciary.

By Mr. BUSH:

S.J. Res. 184. Joint resolution requesting the President to proclaim October 9 as Leif Erickson Day; to the Committee on the Judiciary.

CONCURRENT RESOLUTIONS

THE RIGHT OF PERSONS RESIDING ON FEDERALLY OWNED LANDS TO VOTE IN CERTAIN ELECTIONS

Mr. BEALL submitted a concurrent resolution (S. Con. Res. 74); which was referred to the Committee on the Judiciary, as follows:

Resolved by the Senate (the House of Representatives concurring), That it is hereby declared to be the sense of the Congress that persons residing on federally owned lands (other than military reservations) situated in any State should be extended the right to vote in elections conducted in such State for presidential and vice presidential electors and for Members of the Senate and House of Representatives of the United States if such persons meet all the requirements for voting in such State except the requirement of residence, which requirement they are unable to meet solely because they reside on federally owned lands.

EXTENSION OF GREETINGS TO THE BETHEL HOME DEMONSTRATION CLUB, OF SUMTER COUNTY, S.C.

Mr. THURMOND (for himself and Mr. JOHNSTON) submitted a concurrent resolution (S. Con. Res. 75); which was referred to the Committee on the Judiciary, as follows:

Whereas the Bethel Home Demonstration Club, founded in Sumter County, S.C., in March of 1915, was the first home demonstration club in the United States, and

Whereas home demonstration clubs have been of great value to the people of the United States by aiding in the diffusion of knowledge and skills among the women of rural America, and

Whereas Winthrop College, the South Carolina college for women, pioneered in developing the concepts and in providing leadership for the home demonstration club movement, and

Whereas the year 1962 is the 100th anniversary year of the U.S. Department of Agriculture and of the land-grant college system: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States recognizes that the Bethel Home Demonstration Club of the Bethel Community, Sumter County, S.C., was the first such club to be established in the United States, and extends its greetings and felicitations to the Bethel Home Demonstration Club on the occasion of the 100th anniversary year of the establishment of the U.S. Department of Agriculture and the land-grant college system.

PROTECTION OF CONSTITUTIONAL RIGHTS OF CERTAIN MENTALLY ILL INDIVIDUALS

Mr. ERVIN. Mr. President, last week was the 14th annual observance of National Mental Health Week. The theme for this year's observance is "Community Action for Mental Health." As the theme implies, this year community interest in mental health is being stressed.

The phrase "mental health" is growing in importance in the overall scheme of American life as the Federal Government and many of our States and local communities prepare to come to grips with their mental health problems. Statistics show that, annually, these problems involve some 700,000 citizens who are hospitalized as mentally ill patients; an approximately 5 million mentally retarded children and adults; 4 million acute alcoholics, 45,000 drug addicts, and the uncounted number cared for in private hospitals and homes. The cost of care for the mentally ill alone is estimated to exceed $1 billion annually. National studies and surveys reveal that an additional $2 billion is needed before an effective program to furnish minimum needs and resources can be initiated. The National Institute of Mental Health and the National Association for Mental Health, sponsors of Mental Health Week, together with hundreds of affiliated associations are making a special appeal this year to local communities to accept their responsibility and their moral obligation to provide better care for these less fortunate citizens.

Medical and social research have already lead the way by helping us to better understand the disordered mind, by providing methods for treating these various disorders and by constantly striving to discover the social or biological causes for mental breakdowns. Exemplifying its willingness to provide the much needed leadership, the Federal Government annually provides funds for research programs under the auspices of the National Institute of Mental Health. In addition, it has set the standard with its superiorly administered Veterans' Administration hospitals.

Over the past 10 years the States' role in the field has been, for the most part, limited to improvements in operating facilities and repairing outmoded buildings. According to all verified Commissions' reports, only a few States, provide even the bare minimum needs for the necessary care and treatment of our mentally disabled. Community apathy and the lack of necessary funds are cited as the primary obstacles to overcome in coping with this nationwide problem.

I hope that the Nation's communities will rally to the appeal of these various organizations—not for this year alone, but until proper care for the mentally ill has been achieved.

A digest of the final report of the Joint Commission on Mental Illness and Health points up the community's lack of response to the mentally ill. I have found particularly interesting a section of this digest, and I should like to bring it to the attention of the Members of the Senate. Accordingly, I ask unanimous consent that this excerpt from the Joint Commission report entitled "Many People, Including Physicians, Find It Hard To Recognize Psychological Illness as Illness" be printed in the body of the RECORD as part of my remarks.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

MANY PEOPLE, INCLUDING PHYSICIANS, FIND IT HARD TO RECOGNIZE PSYCHOLOGICAL ILLNESS AS ILLNESS

The way society handles its mentally ill has been the subject of scandalized attack many times. But, as already implied, repeated exposure of the shameful, dehumanized condition of the mentally sick people who populate the back wards of State hospitals does not arouse the public to seek sweeping humanitarian reforms, let alone stimulate widespread application of modern methods of treatment. Presumably, if we can answer why there has not been a strong public response (as there has been, for example, in the campaigns against tuberculosis, cancer and heart disease) we then can determine why effective treatment for the mentally ill has lagged.

The answer, according to our analysis in the following pages, is that the mentally ill are singularly lacking in appeal. They tend to disturb or offend other people and, when they do, people generally treat them as disturbers and offenders and, of course, as if they were responsible for their behavior. In contrast, it has been the special view of the mental health professions that people should understand and accept the mentally ill and do something about their plight.

The public has not been greatly moved by this protest. People do feel sorry for the mentally ill, but in the balance, they do not feel as sorry as they do relieved to have out of the way persons whose behavior disturbs and offends them. Patients with major mental illness come to be viewed as "impossible people" and mental institutions as places where they are sent when their families and communities "no longer can stand them."

The fact that society tends to reject the mentally ill is, of course, well known; little significance seems to have been attached to it, however. The full reach of the rejection mechanism is little recognized and even denied by some who have learned to overcome it in their own professional relations with persons suffering mental disturbances or disorders.

We can name a number of processes, all of which add up to, or reinforce, the fact that the mentally ill repel more than they appeal. One characteristic of a psychotic is that he becomes a stranger among his own people. Since antiquity mankind has been prone to feel hostility toward the stranger, and this applies equally to any persons who behave strangely. A social system depends on order, and order depends on predictability in the behavior of one's fellows.

Normal persons for the most part want to do what they have to do to "get along." The typical psychotic does not. In consequence, society conventionally closes ranks against him. Identified major mental illness carries a stigma that cuts the bonds of human fellowship.

Many other diseases—tuberculosis, syphilis, cancer, for example—have at times stigmatized their victims. But the stigma of a disease recognized to be physical and lethal tends to disappear, or be offset, as it becomes better understood and publicly attacked. The reason, as we analyze it, is not that science has found causes and cures—the causes and cures of cancer and the leading forms of heart disease are still the subject of an intensive search.

Rather, the physically sick person fits society's deep-seated conception of a sick person. Feeling helpless, he turns to others for help and, receiving help, is responsive to it. He evokes sympathy. Commonly, the acutely ill psychotic does not appear to want help or accept help but, quite the reverse,

thinks he is not sick and may interpret "help" as "harm." He repels sympathy. He is mad.

This lack of appeal has many dimensions. The rise of State hospitals and their persistence, despite all efforts to reform them, is the most outstanding example. Mental health authorities are in general agreement that society uses these huge institutions as dumping grounds for social rejects, rather than as true hospitals.

A rejection effect may also be detected in the rise of the mental hygiene movement. Its founder, Clifford Beers, as his book "A Mind That Found Itself" clearly reveals, intended the movement to be primarily one of stopping brutal treatment of the mentally ill and converting mental hospitals into humane, healing institutions. It did not become so. Attention became focused on mentally healthy living rather than help for the sick.

The mentally ill's lack of appeal as a public cause has been reflected in a lack of strong leadership and strong organization in the voluntary mental health movement, some State organizations excepted. An organization can hardly develop and mature, as a matter of fact, if followers or members cannot be persuaded in sufficient numbers to identify with the cause at hand. It has been observed that the mentally ill are inherently handicapped in any effort to form a strong public pressure group. Lacking in a reasonable capacity to get along with other people, they find organization behind a leader to be difficult, if not impossible. The friends or relatives are equally immobilized through an aversion to identifying themselves with the mentally ill.

Several studies of public attitudes have shown a major lack of recognition of mental illness as illness, and a predominant tendency toward rejection of both the mental patient and those who treat him. There is a general agreement on these points in contrast to the lack of confirmation often characterizing parallel studies in the mental health field. (It is encouraging to note, however, that these negative attitudes are less among younger and better educated persons than the older and less educated groups.)

The circle of negligence and indifference becomes complete when we recognize that many members of learned professions are likewise prone to turn their back on the core problem of major mental illness.

General practitioners as well as other members of the medical profession have been found in a majority of instances to be both uninformed and unsympathetic when they are confronted with mental illness. The same observation applies, oddly enough, to many psychiatrists in private practice when we narrow discussion to the core problem of severe mental illness. The main concern of the popular psychoanalyst is with neurosis rather than psychosis; this is also true of other types of psychiatrists in private practice. Their major focus is on minor and more easily treatable forms of mental illness. Even mental hospital superintendents themselves, it has been noted, may share the public's stigmatizing attitudes toward mental patients.

In summary, we need to become conscious, at the action level, of two points if we are to overcome the lag in the care of the mentally ill: (1) People find it difficult to think about and recognize psychological illness as illness, or to see sickness as having psychological forms. (2) The major mentally ill as a class lack in appeal, which is to say that they are overburdened with liabilities as persons and as patients.

To explain the first point: Man is prima facie an outward-looking, tool-operating, thing-oriented creature, the man of science not excepted. We use our unique human intelligence principally to think about picturable, tangible, concrete, measurable, recordable things. Recent anthropological and neurological evidence indicates that tools were used by prehistoric apes in the absence of a human brain, and that continued use of tools may have conditioned the way in which the human brain evolved. Also, the interpretation is borne out by the more rapid advancement of the physical and mathematical than of the behavioral and social sciences, and by the fact that the most crucial questions facing mankind today involve psychological and social conduct. In any event, education of the average man appears to favor greater understanding of matter than of mind. Most of us are in this way psychologically handicapped persons, mentally blind to our physical bias.

To elaborate the second point: It is not so much his symptoms themselves that bring the psychotic patient into a mental hospital—many people in the general population have equally strange symptoms—but that his behavior reaches a point where people no longer can stand it. Violence is more the exception than the rule, popular misconceptions to the contrary. It is basically that normal people are disturbed by the patient's refusing to comply with expectations of time and place. Challenged by the problem, the psychiatrist in the hospital nonetheless may find the patient uncooperative—too wearing, too trying, too tiring. Thus the most conscientious and devoted doctor may be forced to turn his back on the patient, completing the circle of rejection.

It should now be clear that one way around the impasse of public and professional attitudes that we appear to have erected would be to emphasize that persons with major mental illness are in certain ways different from the ordinary sick. With such an understanding and agreement, it might then be possible to proceed in the light of fuller reason to adopt more helpful attitudes.

Mr. ERVIN. Mr. President, the sponsors of Mental Health Week, in focusing attention on a great national health problem, have rendered an invaluable service to the Nation and indeed to all mankind. I congratulate them on their past achievements, which portend even greater progress for the years ahead.

Mr. President, on behalf of myself, and Senators JOHNSTON, MCCLELLAN, CARROLL, LONG of Missouri, and HRUSKA, I introduce, for appropriate reference, a bill to protect the constitutional rights of individuals who are mentally ill, by defining the rights of such persons during care, treatment and hospitalization.

The purpose of this bill is to correct some of the inequities and abridgments of basic constitutional rights of persons suffering from mental illness in the District of Columbia. Even though this measure, if enacted, will be operative only in the District, it is hoped that the rights of the patient in a mental hospital will be so explicitly enumerated that the basic provisions of this bill may be used as a guide for the various States when they are considering similar legislation.

Mr. President, according to the National Institute of Mental Health, more than one-half of the hospital beds in this country today are occupied by persons afflicted with mental disorders and it is predicted that the number will be even greater in the future.

Mental illness creates problems that are not ordinarily associated with other types of illnesses. With a mental illness, a person's capacity for rational judgment is affected, often rendering him incapable of adhering to the sociological patterns set by society. Throughout the ages, society has attempted to reject and isolate those who are mentally ill and it has only been within the past century that our society has been conditioned to think in terms of treatment and rehabilitation of these hapless individuals. In the past, we too had been guilty of being more concerned with seeing to it that the mentally ill were isolated and securely "put away" rather than seeking their cure when they did not fit the patterns of our society. This attitude was a result of a lack of knowledge of the cause and nature of mental illness.

Fortunately, medical advancement has opened new vistas in understanding the problems of the mentally ill, and our country is in the process of acquiring new perspectives in the treatment of these people. However, it is acknowledged that our new perspective has not always provided for protection of the rights of these individuals.

To me, it is a startling fact that 1 out of every 10 persons may at some time in life suffer such an illness, and may, at the mere suggestion of the existence of the illness, have his rights placed in jeopardy.

In our enlightened era, one may be detained merely on an accusation of a mental illness. He may be locked up for days or even weeks, sometimes without being accorded the slightest pretext of due process protection. He may be detained without the right to communicate with those who could help him, and without even receiving the treatment which, ostensibly, is one of the main reasons for separating him from society.

Mental illness poses legal problems which are unlike any other. The scope of these problems is not yet fully appreciated; this area of the law is still in evolution.

Despite the number and complexity of constitutional and legal problems posed by mental illness, it has been said that this area has received less public and legal sympathy than any area of the law. The Joint Commission on Mental Illness and Health, in a recent report, gives as reason for the lack of public sympathy for the mentally ill, the fact that people suffering from a mental illness are singularly lacking in appeal. I would like to add to this premise that they also lack the singular power to demand the sympathy and attention of Congress and their State legislatures.

The Subcommittee on Constitutional Rights has taken steps to clarify the existing situation and to resolve some of the recognized problems. More than 2 years ago, the subcommittee commenced a comprehensive study of the rights of the mentally ill. Last year, we held 6 days of public hearings on the subject. The first of these hearings, held on March 28, 29, and 30, were concerned with civil procedures for hospitalization of the mentally ill, and additional hearings dealing with criminal insanity were held on May 2, 4, and 5. During these public hearings, the sub-

committee received the views and recommendations of a number of the country's eminent authorities on the medico-legal problems of the mentally ill. In addition, the subcommittee utilized information from studies by independent and governmental organizations relating to the constitutional aspects of this pressing national problem. These views and materials have been thoroughly evaluated and the bill which I am introducing reflects some of the findings and recommendations resulting from our studies.

The subcommittee endeavored to review every constitutional aspect of mental hospitalization procedures. The discussions ranged from the basic right of the State to detain an individual for purposes of preventing personal or property damages, to a consideration of the right of patients to receive, regularly, the best treatment available to modern medicine.

In connection with the discharge procedures, we considered the constitutional question of the adequacy of the use of habeas corpus or other proceedings to satisfy the denial of a hearing before summary commitment to a hospital. The subcommittee also considered the constitutional question of deprivation of liberty without due process of law in relation to prolonged detentions of the mentally ill.

At this point, I might say that I was pleased to learn at the subcommittee's hearings that my own State of North Carolina has made significant strides in the treatment aspect of hospitalization of the mentally ill. Its progress is pronounced in its shortened periods of hospitalization. Dr. Eugene Hargrove, North Carolina commissioner of mental health, revealed that 80 to 85 percent of first admission patients are released within 90 days. I believe, from comparing the testimony of some 21 other witnesses, that North Carolina's release rate has established a current record.

I hope that in the future there will be new records of achievements forthcoming from all State hospitals. Certainly, the theme, "Community Action for Mental Health," portends a better future for the treatment, care and protection of the mentally ill. However, a theme alone does not achieve a purpose nor fulfill a moral obligation. It is the duty of the citizens of the States to see that the means are provided for raising the standards of their hospitals. I feel that Congress should set an example for the States in legislating to meet the needs of contemporary society in this area of the law, and, by the same token, that Federal facilities should set standards in their care which the State hospitals will want to emulate.

St. Elizabeths Hospital, in the District of Columbia, the only general admission hospital for the mentally ill under the auspices of our Federal Government, should serve as the national standard for all hospitals treating mental illness. And, I hope that this measure I introduce today will be a significant step in achieving the full protection of the constitutional rights of the mentally ill.

Mr. President, I ask unanimous consent that the text of the bill, along with an analysis of its provisions and a comparison of its provisions with current District of Columbia statutes, be printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill, analysis, and the comparison will be printed in the RECORD.

The bill (S. 3261) to protect the constitutional rights of certain individuals who are mentally ill, to provide for their care, treatment, and hospitalization, and for other purposes, introduced by Mr. ERVIN (for himself and other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

This Act may be cited as the "Hospitalization of the Mentally Ill Act".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "mental illness" means any psychosis or other disease which substantially impairs the mental health of an individual (but shall not include epilepsy, alcoholism, drug addiction, or mental deficiency);

(2) the term "mentally ill individual" means any individual who has a mental illness;

(3) the term "physican" means an individual licensed under the laws of the District of Columbia to practice medicine;

(4) the term "private hospital" means any nongovernmental hospital or institution, or part thereof, in the District of Columbia, equipped to provide inpatient care and treatment for any individual suffering from a physical or mental illness;

(5) the term "public hospital" means any hospital or institution, or part thereof, in the District of Columbia, owned and operated by the Government of the United States or of the District of Columbia, equipped to provide inpatient care and treatment for any individual suffering from a physical or mental illness;

(6) the term "Board of Public Welfare" means the District of Columbia Board of Public Welfare; and

(7) the term "Administrator" means an individual in charge of a public or private hospital or his delegate.

VOLUNTARY HOSPITALIZATION

SEC. 3. (a) Any individual who has a mental illness or who has symptoms of a mental illness, may apply to any public or private hospital for admission to such hospital as a voluntary patient for the purposes of observation, diagnosis, or care and treatment of such illness. The Administrator of a private hospital may, and the Administrator of a public hospital shall, upon the request of any such individual 21 years of age or over (or in the case of any individual under 21 years of age, upon a request made by his spouse, parent, or legal guardian), admit such individual as a voluntary patient to such hospital for observation, diagnosis, or care and treatment of such illness in accordance with the provisions of this Act.

(b) Any voluntary patient admitted to any hospital pursuant to this section shall, if he is 21 years of age or over, be entitled at any time to obtain his release from such hospital by filing a written request with the Administrator thereof. The Administrator shall, within a period of 48 hours after the receipt of any such request (unless such period shall expire on a Saturday, Sunday, or legal holiday, then not later than noon of the next succeeding day which is not a Saturday, Sunday, or legal holiday), release the voluntary patient making such request. In the case of any voluntary patient under the age of 21 years, the Administrator shall immediately release such patient upon the written request of his spouse, parent, or legal guardian. The Administrator may release any voluntary patient hospitalized pursuant to this section whenever he determines that such patient has recovered or that his continued hospitalization is no longer beneficial or advisable.

EMERGENCY HOSPITALIZATION

SEC. 4. (a) Any duly accredited officer or agent of the Board of Public Welfare, or any officer authorized to make arrests in the District of Columbia, who has reason to believe that an individual is mentally ill and, because of such illness, is likely to injure himself or others if he is allowed to remain at liberty may, without a warrant, take such individual into custody, transport him to a public or private hospital, and make application for his admission thereto for purposes of emergency observation and treatment. Such application shall reveal the circumstances under which the individual was taken into custody and the reasons therefor.

(b) Subject to the provisions of subsection (c) of this section, the Administrator of any private hospital may, and the Administrator of any public hospital shall, admit and detain for purposes of emergency observation and treatment any individual with respect to whom such application is made. If such application is accompanied by a certificate of a physician on duty at such hospital stating that he has examined the individual and is of the opinion that he has symptoms of a mental illness and, because of such illness, is likely to injure himself or others unless he is immediately hospitalized. Not later than twenty-four hours after the admission pursuant to this section of any individual to a hospital, the Administrator of such hospital shall serve notice of such admission, by registered mail, to the spouse, parent, or legal guardian of such individual and to the Commissioners of the District of Columbia.

(c) No individual admitted to any hospital for emergency observation and treatment under subsection (b) of this section shall be detained in such hospital for a period in excess of twenty-four hours from the time of his admission unless the Administrator of such hospital has, within such twenty-four hour period (unless such period shall expire on a Saturday, Sunday or legal holiday, then not later than noon of the next succeeding day which is not a Saturday, Sunday or legal holiday), filed a written petition with the United States District Court for the District of Columbia for an order authorizing the continued hospitalization of such individual for emergency observation and treatment.

(d) The court shall, within a period of 24 hours after the receipt by it of such petition (unless such period shall expire on a Saturday, Sunday or legal holiday, then not later than noon of the next succeeding day which is not a Saturday, Sunday or legal holiday) either order the hospitalization of such individual for emergency observation and treatment for a period of not to exceed ninety-six hours from the time such order is entered, or order his immediate release. In making its determination, the court shall consider the testimony of the agent or officer who made the application under subsection (b) of this section requesting the hospitalization of such individual, and the certificate of the examining physician which accompanied it.

(e) The Administrator of any hospital in which an individual is hospitalized for emergency observation and treatment under a court order entered pursuant to subsection (d) of this section shall, within forty-eight hours after such order is entered, have such individual examined by a physician. If the physician, after his examination, certifies that in his opinion the individual is not mentally ill to the extent that he is likely to injure himself or others if allowed to remain at liberty, the individual shall be immediately released. The Administrator shall, within forty-eight hours after such examination has been completed, send a copy of the results thereof by registered mail to the spouse, parents, attorney, legal guardian or other nearest known adult relative of the individual examined.

(f) Notwithstanding any other provision of this section, the Administrator of any hospital in which an individual is hospitalized for emergency observation and treatment under this section may, if judicial proceedings for his hospitalization have been commenced under section 5 of this Act, detain such individual therein during the course of such proceedings.

HOSPITALIZATION UPON COURT ORDER

SEC. 5. (a) Proceeedings for the judicial hospitalization of any individual in the District of Columbia may be commenced by the filing of a petition with the United States District Court for the District of Columbia by his spouse, parent, or legal guardian, by any physician, duly accredited officer or agent of the Board of Public Welfare, or by any other officer authorized to make arrest in the District of Columbia. Such petition shall be accompanied (1) by a certificate of a physician stating that he has examined the individual and is of the opinion that such individual is mentally ill, and because of such illness, is likely to injure himself or others if allowed to remain at liberty, or (2) by a sworn written statement by the petitioner that (A) the petitioner has good reason to believe that such individual is mentally ill and, because of such illness, is likely to injure himself or others if allowed to remain at liberty, and (B) that such individual has refused to submit to examination by a physician.

(b) Within three days after the receipt by it of any petition filed under subsection (a) of this section, the court shall (1) send a copy of such petition by registered mail to the individual with respect to whom it was filed, and (2) appoint two qualified physicians who shall, within seven days after their appointment, examine, independently of each other, the mental condition of such individual. The examinations may be conducted at a hospital or other medical facility, at the home of the individual to be examined, or at any other place designated by the court. Each such physician shall, on the basis of his examination, report to the court his determinations and findings as to the mental condition of the individual examined and his need for custody, care or treatment in a hospital.

(c) If the reports of the designated physicians are both to the effect that the individual examined is not mentally ill to the extent that he is likely to injure himself or others if he is allowed to remain at liberty, the court shall immediately terminate the proceedings and dismiss the petition. If either of such reports is to the effect that such individual is mentally ill to the extent that he is likely to injure himself or others if allowed to remain at liberty, the court shall fix a date (which shall not be less than five days nor more than fifteen days after the date such reports are filed) for a hearing on the petition, and shall give notice of such hearing to such individual and to his attorney, legal guardian, spouse, parent, or other nearest known adult relative.

(d) Any hearing held pursuant to a petition filed under subsection (a) of this section shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the individual named in such petition. In conducting such hearing, the court shall receive all relevant and material evidence which may be offered and shall not be bound by the rules of evidence. Any individual with respect to whom a hearing is held under this section shall be entitled, in his discretion, to be present at such hearing, to testify, and to present and cross-examine witnesses, but in no event shall any such hearing be concluded without the judge who is conducting such hearing first having personally observed such individual.

(e) Any individual with respect to whom a hearing is held under this section shall be represented by counsel at such hearing, and if he fails or refuses to obtain counsel, the court shall appoint counsel to represent him. Any counsel so appointed shall be awarded compensation by the court for his services in an amount determined by the court to be fair and reasonable. Such compensation shall be charged against the estate or property of the individual for whom such counsel was appointed, or against any unobligated funds of the Board of Public Welfare, as the court in its discretion may direct. The court shall, at the request of any counsel appointed to represent an individual in any hearing held pursuant to a petition filed under subsection (a) of this section, grant a recess in such hearing (but not for more than five days) to give such counsel an opportunity to prepare his case.

(f) If, upon completion of the hearing and consideration of the record, the court finds that such individual is mentally ill to the extent that he is likely to injury himself or others if allowed to remain at liberty, it shall order his hospitalization for an indeterminate period. However, if the court finds that such individual is not mentally ill to the extent that he is likely to injure himself or others if allowed to remain at liberty, it shall order his immediate release.

PERIODIC EXAMINATION AND RELEASE

SEC. 6. (a) Any patient hospitalized pursuant to a court order obtained under section 5 of this Act, or his attorney, legal guardian, spouse, parent, or other nearest adult relative, shall be entitled, within three months after such order and not more frequently than every six months thereafter, to request, in writing, the Administrator of the hospital in which he is hospitalized, to have a current examination of his mental condition made by one or more physicians. If the request is timely it shall be granted. The patient shall be entitled, at his own expense, to have any duly qualified physician participate in such examination. In the case of any such patient who is indigent, the Board of Public Welfare shall, upon the written request of such patient, assist him in obtaining a duly qualified physician to participate in such examination in the patient's behalf. Any such physician so obtained shall be compensated for his services out of any funds available to the Board of Public Welfare in an amount determined by the Board to be fair and reasonable. If the Administrator, after considering the reports of the physicians conducting such examination, determines that the patient is no longer mentally ill to the extent that he is a danger to himself or others, he shall order the immediate release of the patient. However, if the Administrator, after considering such reports, determines that such patient continues to be mentally ill to the extent that he is dangerous to himself or others, but one or more of the physicians participating in such examination reports that the patient is not mentally ill to the extent that he is dangerous to himself or others, the patient may petition the United States District Court for the District of Columbia for an order directing his release. Such petition shall be accompanied by the reports of the physicians who conducted the examination of the patient.

(b) In considering such petition, the court shall consider the testimony of the physicians who participated in the examination of such patient, and the reports of such physicians accompanying the petition. After considering such testimony and reports, the court shall either (1) reject the petition and order the continued hospitalization of the patient for an indeterminate period, or (2) order the administrator to immediately release such patient.

(c) The administrator of a public or private hospital shall as often as practicable, but not less often than every six months, examine or cause to be examined each patient admitted to any such hospital pursuant to section 5 of this Act and if he determines on the basis of such examination that the condition which justified the involuntary hospitalization of such patient no longer exists, the administrator shall immediately release such patient.

RIGHT TO COMMUNICATION AND VISITATION—EXERCISE OF CERTAIN RIGHTS

SEC. 7. (a) Each patient hospitalized in a public or private hospital pursuant to this Act shall be entitled (1) to communicate by sealed mail or otherwise with any individual or official agency inside or outside the hospital, and (2) to receive uncensored mail from his attorney or personal physician. All other incoming mail or communications may be read before being delivered to the patient, if the administrator believes such action is necessary for the medical welfare of the patient who is the intended recipient. However, any mail or other communication which is not delivered to the patient for whom it is intended shall be immediately returned to the sender.

(b) Each patient hospitalized in any public hospital for a mental illness shall, during his hospitalization, be entitled to medical and psychiatric care and treatment. Within five days after the end of each calendar month the administrator of each public hospital shall submit to the Commissioners of the District of Columbia a report giving a detailed account of the type of medical and psychiatric care and treatment which, during such month, has been provided by such hospital to each patient hospitalized therein for a mental illness.

(c) No mechanical restraint shall be applied to any patient hospitalized in any public or private hospital for a mental illness unless the use of restraint is prescribed by a physician, and if so prescribed, such restraint shall be removed whenever the condition justifying its use no longer exists. Any use of a mechanical restraint, together with the reasons therefor, shall be made a part of the medical record of the patient. The Administrator shall make written quarterly reports to the Commissioners of the District of Columbia or their delegate of each use of a mechanical restraint, the reason for such use and the duration thereof.

(d) No patient hospitalized pursuant to this Act shall, by reason of such hospitalization, be denied the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, and vote, unless such patient has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal guardian, spouse, parents, or other nearest known adult relative of that fact.

VETERANS' ADMINISTRATION FACILITIES

SEC. 8. Nothing in this Act shall be construed to require the admission of any individual to any Veterans' Administration hospital facility unless such individual is

otherwise eligible for care and treatment in such facility.

UNWARRANTED HOSPITALIZATION OR DENIAL OF RIGHTS—PENALTIES

SEC. 9. Any individual who willfully causes or conspires with or assists another to cause (1) the unwarranted hospitalization of any individual under this Act, or (2) the denial to any individual of any right accorded to him under this Act, shall be punished by a fine not exceeding $5,000 or imprisonment not exceeding three years, or both.

MISCELLANEOUS

SEC. 10. Any Act or part of an Act which is inconsistent with any provision of this Act shall, to the extent of the inconsistency, cease to apply on and after the date of enactment of this Act.

The analysis and comparison presented by Mr. ERVIN are as follows:

ANALYSIS OF THE BILL TO PROTECT THE CONSTITUTIONAL RIGHTS OF CERTAIN INDIVIDUALS WHO ARE MENTALLY ILL, TO PROVIDE FOR THEIR CARE, TREATMENT, AND HOSPITALIZATION, AND FOR OTHER PURPOSES

This bill brings up to date the District of Columbia statutes dealing with the hospitalization of the mentally ill in the areas of admission to the hospital, patient examination and release procedures and enumeration of personal rights of the patient.

Section 1 is the title for this proposal.

Section 2 defines some of the terms used in this act. The principal definition in this section is of the term "mental illness." The object of the definition is to correlate the legal meaning and the precise medical condition of the patient.

Section 3 provides that a private hospital may, and a public hospital must, admit any individual, over 21 years of age, who applies for observation, diagnosis, or care and treatment for a mental illness. It further provides that any individual who has voluntarily applied for admission should be released within 48 hours after submitting a written request for same.

This is a significant improvement over the existing procedure for admitting voluntary patients, in that it eliminates the cumbersome conditions that unduly restrain the categories of persons accepted for hospitalization. Some of these conditions are: sufficient mental competency to make an application; certification and approval of application by the Board of Public Welfare; a guarantee that the hospital will be reimbursed for cost of care; residential requirements and the ever present threat of revocation of certification by the Board of Public Welfare.

Section 4 (a) and (b) permits an authorized arresting officer to seize any individual believed to be mentally ill to the extent that he may cause injury to himself or others, and to transport him to a public or private hospital for observation and treatment. Such admissions must be accompanied by the officer's statement of circumstances and reasons for the seizure; a certificate from the admitting physician stating that an immediate examination has been made and that the patient needs hospitalization to prevent injury to himself or others. Notice of admission is required to be by registered mail to the nearest relative within 24 hours of the hospitalization.

Section 4 (c) and (d) spells out the conditions and the time regulation by which a hospital may detain an individual for emergency observation. It specifies that within 24 hours of admission the Administrator must file a petition with the U.S. District Court for the District of Columbia for an order authorizing the continued hospitalization of the individual. Following receipt of the petition, the court, within 24 hours, is required to reply with an order of detainment for not more than 96 hours or an order for immediate release.

Section 4 (e) and (f) concerns the disposition of the individual following the court order of detainment. Requires medical examination within 48 hours of the court order for detainment. If found not to be mentally ill he is released immediately. If found to be mentally ill, the patient's nearest relatives, guardians, etc., must be notified within 48 hours. Continued detention of the individual may be effected only if proceedings for judicial hospitalization are initiated.

Section 5 deals with procedures for hospitalization upon court order which may be commenced by the filing of a petition by: the spouse, parent, legal guardian, any physician, officer or agent of the Board of Public Welfare, or officer authorized to make arrest. The petition must be accompanied by physician's certificate of examination and by petitioner's sworn written statement that the individual is mentally ill and likely to injure himself or others if released and that he has refused examination by a physician.

Section 5 (b) and (c) requires the court to send, within 3 days, a copy of the petition to the individual concerned and appoint two physicians to examine independently of each other the mental condition of the individual at a court approved site. Each physician is required to report to the court the findings of his examination. If each report shows the individual not to be dangerous to himself or others, the court must terminate proceedings. If, however, either report indicates the individual is dangerous, the court shall fix a date, within 5 to 15 days of the report, for a hearing. It provides also for notice to the appropriate individuals.

Section 5 (d), (e) and (f) outlines the conduct of the hearings. It provides for: (1) a proper setting for the hearings; (2) permits the court to receive evidence; (3) permits the individual to be present at hearings to testify, to present and cross-examine witnesses; (4) requires the judge to personally observe the individual; (5) requires representation by counsel and directs the court, upon findings, to order hospitalization for an indeterminate period or order release of the individual in accordance with the findings in the proceedings.

Section 6 (a), (b) and (c). This section entitles the patient to request a mental examination within 3 months after the order and each 6 months thereafter with his personal physician participating in the examination. If the reports of the physicians are favorable, the Administrator, after considering each report, shall order the release of the patient. If any of the reports indicate the continued existence of the illness, but one or more indicates the illness no longer exists, the patient may file a petition in District Court for his release based on the favorable report of the examination. The court may reject the petition and order the continued hospitalization of the patient, or order the Administrator to immediately release such patient.

The Administrator shall examine each patient not less often than every 6 months and when it is determined that the patient is no longer ill, he may order his release.

Section 7 enumerates for the first time in the District of Columbia law, the personal rights of the patient.

Section 7(a) entitles the patient to communicate, by sealed mail, with individuals and officials and to receive uncensored mail from his attorney and physician. All other mail is subjected to the scrutiny of the Administrator; however, any mail that is forbidden the patient must be returned immediately to the sender.

Section 7(b) entitles the patient to adequate medical and psychiatric care and treatment, and requires that a record be kept of the type of medical and psychiatric care and treatment administered. These records are to be filed monthly with the Commissioners of the District of Columbia.

Section 7(c) forbids the use of mechanical restraints except as prescribed by a physician, whose reasons therefor shall be made a part of the patient's medical record to be forwarded quarterly to the Commissioners of the District of Columbia.

Section 7(d) gives the patient the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, and vote, unless the patient has been adjudged by a court to be incompetent.

Section 8 exempts application of this act to admissions of individuals, unless otherwise eligible, to Veterans' Administration hospitals.

Section 9 provides for fine and imprisonment of any individual who willfully causes or assists in an unwarranted hospitalization of another individual.

Section 10 provides that any inconsistency of present laws with the provisions of this act no longer applies after enactment of this act.

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE,
Washington, D.C., August 3, 1961.

To: Subcommittee on Constitutional Rights, Hon. SAM J. ERVIN, JR. (Attention: Mr. ERVIN).

From: American Law Division.

Subject: District of Columbia, Mental Health (comparison of proposed act with current statutes).

Provisions of law relating to the hospitalization of the mentally ill now in effect in the District of Columbia appear in different titles of the District of Columbia Code. Provisions relating to the voluntary admission of mental patients appear in title 32, entitled "Eleemosynary, Curative, and Penal Institutions," while other provisions are codified under title 21 of the District Code entitled "Guardian and Ward, and Insane Persons." These provisions are the results of numerous enactments over a period of many years. However, the basis for most of the provisions are found in three acts passed by the Congress, namely: (1) The so-called District of Columbia Detention of Insane Act, approved April 27, 1904, 33 Stat. 316; (2) the so-called District of Columbia Insanity Proceedings Act, approved June 8, 1938, 52 Stat. 625; and (3) the so-called District of Columbia St. Elizabeths Hospital Mental Patient Voluntary Admissions Act, approved June 22, 1948, 62 Stat. 572.

Because of the method in which these provisions are codified and the difference of time of enactment of the acts it is difficult to make a specific comparison of every comparable section of the District of Columbia Code with that of the proposed act.

An attempt is made to seek and compare the major sections of the District of Columbia Code which have similarity with the subject matter of the provisions of the proposed act. Provisions broadening the jurisdiction of St. Elizabeths Hospital to accept mentally ill persons from areas in Maryland and Virginia and Federal employees are not included in this comparison because of the time limitation given this report.

It is not possible to give a specific list of provisions in the District of Columbia Code which would be repealed by the proposed act since it does not repeal any specific provisions but only those provisions inconsistent with any provision of the proposed act. It would seem to require judicial action to determine whether some of the District of Columbia provisions relating to commitment of the mentally ill would be partly or completely repealed by the proposed act.

PROPOSED ACT	DISTRICT OF COLUMBIA CODE
Section 1: District of Columbia Hospitalization of the Mentally Ill Act.	No comparable provisions found.
Section 2: Provides definitions for terms used in act.	No comparable provisions found.
Voluntary hospitalization	
Section 3(a): Permits any individual (if over 21 or by a responsible person if under 21) who has a mental illness or symptoms thereof to apply to any public or private hospital in the District of Columbia for admission as a voluntary patient for care and treatment regarding such patient. Permits the admission of such person for observation, diagnosis, or care and treatment. (b) Provides that any such patient 21 or over be released upon a written request thereof within 48 hours after receipt of such request. In case of a patient under 21 he is entitled to immediate release upon the written request of a responsible person. Also permits the release of such persons whenever the Administrator determines that such patient has recovered and no longer in need of care.	District of Columbia Code 32–412: Permits the Superintendent of Saint Elizabeths Hospital to receive as a patient any person making application, if he determines that such person is in need of care, and is mentally competent to make a written application. Conditions such admission upon certification of the Board of Public Welfare of the District of Columbia that it will reimburse the hospital for the cost of caring for such patient. Certification is restricted to such persons found to be residents of and domiciled in the District for not less than one year. Provides that no person may be permitted to remain at the hospital after the need for his treatment ends or after the certification given by the Board of Public Welfare is revoked. Authorizes the Board to require any person financially able to do so to pay the cost of care to the extent of his financial ability and the Board is authorized to refuse to certify him unless such an agreement is made. District of Columbia Code 32–413: Requires the discharge from the hospital of any such person within 3 days after written request for such release unless, within that period, the statutory proceedings in effect for commitment of insane persons are initiated, or a petition by the Board of Public Welfare files a petition in court for a writ de lunatico inquirendo, or for an order of commitment, stating that the person is of unsound mind and should not be permitted to go free. Pending the hearing upon the petition, the patient will be detained at Saint Elizabeths Hospital. District of Columbia Code 32–414: Provides that the cost of care for such persons is to be a charge on the District of Columbia, but authorizes the District to make such agreement as it deems necessary with the patient or relatives for payment and permits it by legal action to recover the cost from any person legally liable. Permits the District to revoke the certification under certain circumstances. Authorizes the Superintendent of the hospital and the Commissioners to prescribe necessary regulations to carry out the functions under the act.
Emergency hospitalization	
Section 4(a): Permits any accredited officer or agent of the District of Columbia Board of Public Welfare or any officer authorized to make arrests in the District who has reason to believe an individual is mentally ill and is likely to injure himself or others to take such individual without a warrant into custody to a public or private hospital and make application for admission for emergency observation and treatment. (b) Permits the admission of such person if such application is accompanied by a certificate of a physician on duty, that he has examined the patient and is of the opinion that he has symptoms of a mental illness and is likely to injure himself or others. Requires a notice of such admission by registered mail to the spouse, parent, or legal guardian of such patient within 24 hours. (c) Provides that no patient under this section shall be detained longer than 24 hours unless a written petition is filed with the U.S. District Court for an order authorizing the continued hospitalization of such person for emergency observation and treatment. (d) Requires the court within 24 hours to order either the detainment of such person for a period not to exceed 96 hours or order his immediate release. (e) Requires a medical examination of the patient within 48 hours after a court order	District of Columbia Code 21–326: Permits any officer in the District authorized to make arrests to detain without warrant any person of unsound mind found on any street, avenue, alley, highway, or public place in the District of Columbia. Requires the officer to immediately file an affidavit with the police saying he believes the person to be of unsound mind and incapable of taking care of himself and will jeopardize the rights of other persons, etc. Makes it the duty of the police to notify some responsible person of the detention. District of Columbia Code 21–27: Also authorizes the arrest of such person at other than a public place upon affidavits by two or more responsible persons who are residents of the District of Columbia, and a certificate of at least two physicians that such person should not be allowed to remain at liberty. District of Columbia Code 328, 329: Upon such a detention the Commissioners may authorize the admission of the person to Saint Elizabeths for a period of time not exceeding 30 days pending the formal commitment by proper officials charged by law of that duty. Also permits the admission of such persons for temporary commitment to other equipped hospitals. Requires the immediate release of such persons, not certified to be insane.

PROPOSED ACT
Emergency
for his detention and if the patient is found mentally ill the results shall be sent to his spouse, parents, attorney, or legal guardian within 48 hours and if not found mentally ill then the patient is to be released immediately. (f) Permits the Administrator to detain the individual if judicial proceedings have been commenced to detain the individual.
Hospitalization upon
Section 5(a): Permits petitions in the District Court for judicial hospitalization of individuals in the District of Columbia to be filed by spouse, parent, guardian, physician, Board of Public Welfare or by any officer authorized to make arrests. Requires such a petition to be accompanied (1) by a medical certificate relating to the mental condition of the person or (2) a sworn written statement that the petitioner has good reason to believe such person is mentally ill and likely to injure himself or others and that such person has refused a medical examination. (b) Requires the court within 3 days to mail a copy to the person by registered mail and to appoint two physicians to examine the mental condition of the person, at any place designated by the court and to report the results to the court. (c) If the medical reports are to the effect that the individual is not mentally ill to the extent that he is likely to injure himself or others he is allowed to remain at liberty and the petition dismissed. If the reports are against the individual the court shall give notice of and a date for a hearing on the petition. (d) Requires such hearing in an orderly procedure in a setting not likely to have a harmful effect on the mental health of the individual. Permits court to receive all relevant and material evidence. Permits such individual to be present at his discretion, testify and to present and cross-examine witnesses. Requires the judge who is holding the hearing to personally observe the individual. (e) Requires such individual to be represented by counsel and if he fails or refuses to obtain counsel, the court shall appoint one with reasonable compensation to be charged against the individual or Board of Public Welfare as the court may direct. Directs the court to grant a recess, at request of counsel (up to 5 days) to give such counsel an opportunity to prepare his case. (f) Directs the court if it finds the individual mentally ill to the extent that he is likely to injure himself or others if he remains at liberty to order him hospitalized for an indeterminate period and if not to order his immediate release.

DISTRICT OF COLUMBIA CODE	PROPOSED ACT	DISTRICT OF COLUMBIA CODE
hospitalization—Continued		
District of Columbia Code 21–332: Permits such person to be discharged upon bond payable to the United States with condition to restrain and take care of patient not charged with a breach of peace until the patient is restored to sanity. District of Columbia Code: 21–333: Prohibits any insane pe son not charged with a breach of peace from ever being confined in the U.S. District Jail in the District of Columbia.		
court order		
District of Columbia Code 21–306: Provides that proceedings to determine the mental c nditions of an alleged indigent insane persons and persons alleged to be insane with homicidal or dangerous tendencies be instituted upon petition of the Commissioners in equity court. District of Columbia Code 21–307: Provides for a jury in judicial lunacy proceedings. Establishes a Commission on Mental Health to examine alleged insane persons, inquire into their affairs and the affairs of persons legally liable thereafter and make reports and recommendations to the court as to the necessity of treatment, the commitment and payment of the expense of maintenance and treatment of such persons. Directs the Commission to act under the direction of the court. Permits the court, in its discretion to appoint an attorney or guardian to represent the individual at any hearing before the Commission, the court, or before the court and jury. District of Columbia Code 21–310: Permits any person with whom an alleged insane person may reside, father or mother, husband or wife, brother or sister, or a child of lawful age of any such person, nearest relative or friend, or the committee of such person, or an officer of any charitable institution, home, or hospital in which such person may be, or an officer of the Board of Public Welfare, or any authorized officer to make arrest who has arrested the person for such reasons to apply for a writ de lunatico inquirendo and order of commitment by filing in the District Court a verified petition, containing a statement of facts upon which the allegation of insanity is based. Also permits any person believing he has, or is about to, become mentally ill may, upon his own written application, enter Gallinger Municipal Hospital for observation and place himself subject to examination and commitment. District of Columbia Code 21–311: Permits the issuance of attachment and admission of a person for examination at Saint Elizabeths Hospital upon the filing with the court of a verified petition accompanied by the affidavits of two or more responsible residents of the District that they believe the person to be insane or of unsound mind and if permitted to remain at liberty would jeopardize rights of persons and property. Permits the court or judge, in its or his discretion to issue an attachment for immediate apprehension and detention for preliminary examination, and unless found to be of sound mind, therein for a period not exceeding 30 days. If person is found of sound mind he shall be discharged immediately and the petition, if any, shall be dismissed. District of Columbia Code 21–312: Provides that a copy of the report and recommendations of the Commission be served on the alleged insane person with a notice that he had 5 days to demand a jury trial. Permits the court in its own discretion to demand a jury trial. Provides that in a case in which a commitment at public expense, in whole or in part, is sought, the corporation counsel shall represent the petitioner unless he has chosen his own counsel. District of Columbia Code 21–314: Provides that if no jury trial is demanded the judge		
Hospitalization upon court order—Continued		
		may in his discretion require other proofs, in addition to the petition and report of the Commission, or such judge may order the temporary commitment of the alleged person for observation for an additional period of 30 days. He may also dismiss the petition notwithstanding the recommendation of the Commission. If the judge is satisfied that the person is of sound mind he may discharge him and dismiss the petition. District of Columbia Code 21–315: If the judge be satisfied that the person is insane, or a jury shall so find, the judge may commit the person as he, in his discretion shall find to be for the best interests of the public and the person. District of Columbia Code 21–316: Provides that recommendations of the Commission must be made by the unanimous recommendation of the three members acting upon the case and if unable to agree they must file a report to the effect. If they agree they shall file a report setting forth its findings of fact and conclusions of law and its recommendations. District of Columbia Code 21–318: Imposes liability of relatives if able to do so for costs and maintenance of such treatment.
Periodic examination and release		
	Section 6(a): Makes any patient hospitalized pursuant to a court order entitled within three months after order and every six months thereafter to request in writing, to have a current examination of his mental condition and if timely the request shall be granted. Permits him to have any duly qualified physician to participate in such examination and if the patient is indigent directs the Board of Public Welfare to assist him. Directs the Administrator to release the patient if by such reports and examinations it is determined that the patient is no longer mentally ill. If the determination is against the patient but one or more physicians who participated in the examination reports him not mentally ill the patient may file a petition in the District Court for release based on the examinations. (b) Directs the court to reject the petition and order hospitalization or order his release. (c) Directs the Administrator at least every six months to examine such patient and if he determines that the conditions which justified the involuntary hospitalization of such patient no longer exist to release him.	No specific comparable provisions found for periodical examinations. District of Columbia Code 21–325: Provides that nothing contained in these sections shall deprive such persons the benefit of existing remedies to secure his release or to prove his sanity or of any other legal remedies he may have. District of Columbia Code 21–320: Provides for a hearing to restore to the status of a person of sound mind those persons who have been released and absent from the hospital on release or parole of 6 months or longer, before the District Court of the United States for the District of Columbia.
Right to communications and visitation		
	Section 7(a): Entitles each patient to: (1) communicate by sealed mail with any individual or official agency, and (2) to receive uncensored mail from his attorney or physician. (b) Entitles each patient to medical and psychiatric care and treatment. (c) Prohibits the application of any mechanical restraints unless prescribed by a physician. (d) Entitles each patient to dispose of property, execute instruments, make purchases, contract, and vote unless such patient has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.	No specific comparable provisions found.
Veterans' Administration facilities		
	Section 8: Provides that nothing in this act shall be construed to require the admission of any individual to any Veterans' Administration hospital facility unless such individual is otherwise eligible for care and treatment in such facility.	District of Columbia Code 21–316: Permits the Commission to recommend that a person is of unsound mind and should be committed to the Administrator of Veterans' Affairs for care and treatment in a Veterans' Administration facility.
Unwarranted hospitalization or denial of rights—Penalties		
	Section 9: Provides a penalty of up to $5,000 or imprisonment not exceeding 3 years or both for any individual who willfully causes, etc., the unwarranted hos-	District of Columbia Code 21–324: Provides a penalty of $500 or imprisonment of not more than 3 years or both for a false petition or affidavit.

PROPOSED ACT	DISTRICT OF COLUMBIA CODE
Unwarranted hospitalization or denial of rights—Penalties—Continued	
pitalization or denial of any right to any individual under this act.	
Miscellaneous	
Section 10: Provides that any act or part of any act which is inconsistent with any provision of this act shall, to the extent of the inconsistency cease to apply on and after the date of enactment of this act.	No specific comparable provision found.

GROVER S. WILLIAMS,
Legislative Attorney.

Mr. CARLSON subsequently said: Mr. President, the distinguished Senator from North Carolina [Mr. ERVIN], a few minutes ago completed a very excellent statement on the treatment of mentally ill people in our Nation. As he mentioned, last week was Mental Health Week. It was my privilege to speak at the opening of Mental Health Week in Kansas at the Community Hospital at Osawatomie, Kans. At that time I stated that I regarded mental health as one of our most serious problems. It is only in recent years that we have actually come to grips with the problem, and are now treating patients for mental illness, instead of incarcerating them in hospitals, which in reality, became prisons for them for the rest of their lives.

I call attention to an article that appeared in the Leavenworth Times, a Kansas newspaper, on December 27, 1957, which carried a story that I shall never forget—a story about a man released from Osawatomie State Hospital after having been a patient for 50 years.

Had he entered the hospital today instead of then, his chances of release within 6 months would have been excellent. But he entered during a period when mental hospitals were little more than custodial institutions and when the idea of community mental health was only beginning to take shape with the establishment of the first outpatient clinic in a State mental hospital in 1908. Thus, the State spent many thousands of dollars and the greater part of a man's useful years were wasted.

His release would not have been possible even a few years ago, had Kansas lacked the community facilities necessary to provide for his care after leaving the hospital. Although this patient no longer needed formal institutional care, he could not be abruptly sent back to the community from which he had been absent for so many years.

The account of this man's return to the outside world is an appropriate point of departure for what I would like to say to you today, because it illustrates two things:

First, the accomplishments of our State in providing for the mental health needs of its citizens; and second, the nationwide need for more community-based mental health services.

Yesterday marked the beginning of Mental Health Week throughout the Nation. This year's theme—"Community Action for Mental Health"—has special significance to me because it offers an opportunity to review from the standpoint of a legislator and former Governor the record that Kansas has made for itself in meeting the need for community action.

The progress that began during my term as Governor and gathered momentum during the last 12 years, has culminated in outstanding achievements by our State.

The final report of the Joint Commission on Mental Illness and Health has laid bare serious inadequacies in the care and treatment of the mentally ill in this country.

It has scored the need for better care of the hospitalized mental patient, for more training of professional manpower, for more research in the causes and treatment of mental illness—and in line with our Mental Health Week emphasis—for more adequate community services to treat and prevent mental illness and to rehabilitate those who have been afflicted.

The Kansas revolution in mental health began in 1948 when, as Governor, I appointed a commission of outstanding doctors and private citizens to recommend changes in the State's mental health program.

Since that time our State has advanced from 45th place in the Nation in per capita expenditures for the care of patients in public mental institutions, to tenth in 1951, sixth in 1952, and third in 1955, and since 1958 to second place.

While we were spending $1.06 per patient day in 1948—in 1960 we were spending $7.34 per patient day. In 1948, 70 percent of those who entered mental institutions in Kansas stayed for life. In 1960, 85 percent went home—and of these about three-fourths left within the first 3 months after incarceration, which I think signifies the great progress that has been made in the caring for the mentally ill in the State of Kansas.

Since 1948 Kansas has more than a 30 percent reduction in mental hospital populations despite having five times the number of admissions. This has been possible because dynamic programs of psychiatric care and treatment have replaced mere custodial care.

These programs have made possible the recovery of great numbers of individuals who have come to be regarded as patients capable of cure rather than hopeless inadequates, relegated to the back room and consequently forgotten.

The key to the progress this State has made is found in the strength of its mental health program. Webster defines a key as that which affords entrance or possession. Like a key, our mental health program too has its component parts. The "web" of the key—that part which unlocks—is the most vital part, just as our highly qualified professional personnel are the most vital component of our mental health program. Without them, no door to progress could be opened.

The stem of the key—which connects the web with the handle—represents our new treatment methods—they are the connecting link between the professional staff and individuals in need.

Finally, the bow or handle of the key is that part which allows it to be grasped by the individual. It represents our community mental health services which have brought new treatment methods within the grasp of the mentally ill. These components are as necessary to the key as their analogies are to our mental health program. Both permit possession—in the latter case—the possession of sound mental health.

The high caliber of our mental health personnel was acknowledged by the American Psychiatric Association and National Association for Mental Health when, in 1958, they rated the Kansas mental health program among the best staffed in the Nation, despite the fact it cost less than the mental health programs in 16 other States.

The Council of State Governments has named Kansas one of the best examples of good investment in personnel in terms of human values and financial returns.

Kansas began to earn its reputation as "psychiatric training center of the world" shortly after a special committee studied the State hospital program in 1948.

The philosophy, "brains before bricks," reflected the belief that, taking first things first, it would be necessary to train highly qualified psychiatrists and other mental health personnel. We believed that good treatment in old buildings is preferable to bad treatment in new buildings.

One of the earliest training programs was at the Topeka State Hospital, where the Menninger Foundation had a program to study problems of educating psychiatric aides. This program was inspired by an earlier experience at the Winter Veterans' Administration Hospital where young doctors had come to respect the average man's ability to learn basic nursing procedures on the basis of their experience training farmers and mechanics to be effective medical corpsmen during World War II.

During this period, the Menninger School of Psychiatry was a potent force in training personnel who soon proved to the world that mental illness can respond to treatment just as physical illness can. Today the school trains more psychiatrists than any other institution in the world.

In addition to its excellent training programs for mental health personnel, Kansas also has trained law enforcement officials, clergymen, volunteer workers, teachers, and others who deal with emotional problems in their jobs.

Today Kansas is in step with one of the latest educational trends—that of teaching the principles of psychiatry to general practitioners. Family doctors, who have day-to-day contact with patients, can recognize many early symptoms of mental illness and help eliminate them before they reach serious propor-

tions. The American Academy of General Practice has a program whereby general practitioners receive educational credit for attending diagnostic and appraisal conferences at Topeka State Hospital.

Thus, through the excellence of its training programs, Kansas has risen to first place in the Nation for the number of physicians per 100 resident patients in public mental hospitals. It also leads the Nation in the number of professional patient care personnel per 100 resident patients. It is first in the number of full-time employees per 100 patients in public mental hospitals—and it is seventh in the number of psychiatrists per 100,000 population.

Next, let us consider the stem of the key—our new treatment methods. Some great advances have taken place right here at Osawatomie.

The establishment of self-contained treatment units, or "little hospitals," within Osawatomie in 1956 was a significant step toward better care for patients. Under this system, they received more individual attention and continuous intensive treatment by a team of psychiatrists, psychologists, nurses, social workers, and aides.

The team approach is also used at Topeka State Hospital, where a "therapeutic community" is guided by the principle that everybody—from the doctor to the busdriver—aids in the recovery of a patient by their attitudes toward him.

Each successive year has seen some new promising development in the treatment of mentally ill in Kansas.

In 1957 we saw the opening of the Kansas Treatment Center for Children; in 1958 the establishment of the Governor's Committee on Mental Retardation; in 1959 the authorization for the Kansas Neurological Institute; and just recently, the opening of the Children's Hospital of the Menninger Foundation.

Treatment methods have improved through the more widespread use of tranquilizing drugs and through new approaches such as the "remotivation technique," which was first used in Kansas at Osawatomie.

These objective, unemotional discussions of nature, current events, history and other subjects have helped to reach a larger number of patients and have served as an inspiration to both patients and staff.

Experimentation with group psychotherapy methods, the establishment of open wards, and the inauguration of government by the patients are all impressive new approaches to the treatment of mental illness of Osawatomie.

The third part of our mental health program—its community facilities—offers the greatest promise, as well as the greatest need, for our State. The community services are the handle to the key for which the individual reaches when he is in need.

On the positive side, we have recently seen the introduction of the famous "Kansas plan" at Osawatomie. This is a dynamic step forward in organizing hospital staff along community lines by dividing it into units composed of small psychiatric teams assigned to specific areas in the community.

These units handle patients from their assigned areas and work with their counterparts in the community. Thus, with county personnel working closely with hospital personnel, a bond of cooperation is formed between the hospital and the community.

Last year brought one of the most significant advances for the future of mental health services in our State. Governor John Anderson signed into law a bill permitting counties individually or jointly to establish community mental health centers by levying a county tax of one-half mill for their support. This measure proves to me—as it proves to the rest of the country—that local communities in Kansas are truly ready and willing to take care of their own.

By their willingness to provide effective community facilities, they are helping to eliminate the often tragic delays in receiving psychiatric care. Moreover, they are helping to shorten the long lists of patients waiting to receive institutional care.

Already 10 citizen-created mental health centers are operating throughout Kansas. Citizen interest—a longstanding Kansas tradition—has created these clinics and I am sure it will continue to create others.

Our community clinics have had no small part in the discharge since 1953 of over a thousand patients who were inmates in our hospitals for more than 10 years, and the release of over 500 who were inmates for more than 20 years. The record case, I believe, was a patient who was admitted to one of our mental hospitals at age 13 and discharged at 83.

But in spite of these hopeful signs, Kansas ranked 45th in the Nation in 1960 in its per capita expenditures for community mental health programs—a surprising contrast to its No. 1 position in providing adequate professional personnel for patients in public mental hospitals.

These expenditures—which rank far below the U.S. average—are only a statistical framework. But within this framework is the real picture of mental illness—the suffering, heartache, and agony of the patient and of his loved ones.

The new mill tax promises to bring community mental health services more into line with our institutional services. But this alone cannot do the job. We must have greater citizen interest backing our community programs.

The progress as well as the needs of Kansas in the area of community mental health services simply spells out on a smaller scale what is happening across the Nation.

The fact that public mental hospital populations in the United States have steadily decreased, despite an increasing number of admissions, has been attributed in large part to the growing practice of community psychiatry.

In the last 6 years about 32,500 persons have been able to remain in their homes with their families, rather than be hospitalized. This is convincing and dramatic evidence of the vital role of community mental health facilities.

But despite the tripling since 1947 of outpatient psychiatric facilities, despite the growth of emergency psychiatric services, rehabilitative and aftercare services, facilities for the care of the aged, special clinics for the mentally retarded, foster care, and nursing home programs, despite the expansion in all these areas, increases in population and the stresses of modern living have caused the demand for these facilities to far outstrip the supply.

One of the most potent forces for making the supply of community facilities meet the demand is the National Institute of Mental Health. Under the leadership of Dr. Robert H. Felix, it has encouraged and assisted State and local governments to provide for facilities for the mentally ill. Dr. Felix, incidentally, is one of three Kansans, the others being Dr. William Menninger and Dr. Karl Bowman, who have served as president of the American Psychiatric Association.

Five years ago, the Institute received authority under title V of the Health Amendments Act of 1956 to support mental health projects designed to develop improved methods of diagnosis, care, treatment, and rehabilitation of the mentally ill.

Since that time the Institute has supported exploratory and demonstration projects to test and incorporate laboratory findings into community programs. It has transmitted to the States the latest findings from research laboratories, pilot demonstration projects, and clinical and administrative experiences.

But while the Institute has accomplished much, it cannot do its job alone. The community is not only the basic source of research knowledge; it is the means whereby research findings are put into application.

Of what use would polio vaccine be if we did not have ways to administer the vaccine and encourage our citizens to be inoculated? Similarly, of what value would be tranquilizing drugs in treating the symptoms of mental illness if we did not have the personnel and facilities to put these new drugs into use?

It is up to the communities and the individuals making up the communities to conduct research so that new methods of prevention, treatment, and rehabilitation can be developed.

In 1961, Kansas held about 30 research grants from the National Institute of Mental Health. Some of them have won national attention, such as a research project on treatment methods for chronic schizophrenia conducted at Osawatomie and administered through the Menninger Foundation.

This study resulted in a symposium and the publication of a book on "Chronic Schizophrenia." At Osawatomie there is also studied under an NIMH grant the influence of specially trained psychiatric aids on chronic hospitalized patients.

These are some of the areas now being explored in Kansas. Yet many more remain for future investigation. Demonstrations are needed; for example, in community mental health programs for the aged, an area that is very familiar to this hospital which has faced the problem of caring for the older patient and returning him to the community.

There is a need for more demonstration projects concerned with services to emotionally disturbed children, day and night care hospital programs, and mental health care to migrant workers, alcoholics, and juvenile delinquents.

We need to demonstrate that general hospitals in rural areas can provide a wide range of services to the mentally ill. Demonstration projects are needed to help fill the gaps in State mental health programs and lead to the discovery of new procedures for the better care and treatment of the mentally ill.

I am convinced that these community demonstrations and other more basic laboratory research can do for mental health what research in tuberculosis has done to close TB sanitoriums all over the country.

This does not mean that I think the States should become overly dependent on Federal assistance for its research programs. Federal aid is intended solely to stimulate the States into initiating and conducting their own programs. The Federal Government must, as always, stand ready to assist when asked and needed. But the leadership, initiative, and responsibility must rest with the States.

Just as Kansans built strong fences many years ago by using stone instead of wood, so they have provided a strong basis for their mental health programs by making them the best staffed in the Nation.

Now the next step must be taken. These personnel resources must be mobilized and expanded to provide community mental health services so that every citizen can receive psychiatric help when and where he needs it.

Given prompt and adequate treatment, as many as 85 percent of the mentally ill can achieve partial or total recovery within a few months. Denied this care, these individuals will be forced out of the mainstream of life, thus causing suffering for themselves and their families, a heavy financial burden to society, and a needless, tragic waste of human life.

I feel confident that we who have come so far will not stop now. We hold the key to progress in the strength of our mental health programs, and we cannot afford to throw it away. We must use it to unlock the heavy door behind which lurk the many mysteries of mental illness.

Mr. ERVIN. Mr. President, will the Senator from Kansas yield?

Mr. CARLSON. I am glad to yield.

Mr. ERVIN. The Senator stated accurately a moment ago that progress in this field is of comparatively recent origin, but that it has been remarkable during the past few years. Is it not true that the lack of progress for so many years was due in large part to two factors: First, for some reason which it is difficult to fathom, a feeling existed among the American people that a stigma was attached to mental illness as contradistinguished from physical illness; and second, that the hospitals for the mentally ill did not have any kind of alumni association, so to speak, to stress their cause?

Mr. CARLSON. The Senator from North Carolina has stated the situation very well. There was a long period in our Nation's history, extending until recent years, when mental illness was regarded as an illness for which there was not much cure. In other words, patients were placed in mental hospitals and incarcerated practically for life. That situation has been changing rapidly.

I give credit for this change to one of the great institutions of the Nation, the Menninger Foundation, at Topeka, Kans. Dr. William Menninger and Dr. Karl Menninger, his father, before him, have rendered outstanding service, in my opinion, in stressing the importance of trained psychiatrists to work with persons who are mentally ill to cure them of their illness. The Doctors Menninger have had marked success. They have established one of the most noted institutions in the world for this purpose at Topeka. I mentioned briefly in my remarks a new school which they have built for retarded children. It is one of the outstanding institutions of its type in the Nation. The field of mental illness is one in which citizens all over the Nation need to do more work, because the mentally ill need more assistance, and they need it urgently.

Mr. ERVIN. I am convinced that the Doctors Menninger have made a contribution second to none among the psychiatrists of the Nation in this field. My deceased brother-in-law, Dr. James K. Hall, of Richmond, Va., at one time was president of the American Psychiatric Association. On many occasions I heard him speak of the great work which the Menningers had done in this field. He was a particularly close friend of Dr. Karl Menninger.

In my opinion, Kansas has made a shining mark in the care and rehabilitation of the mentally ill. Kansas has set an example which all the States of the Nation would do well to emulate. In my judgment, based upon my study of the subject, Kansas has done this great work largely because of the inspiration afforded by the able and distinguished senior Senator from Kansas [Mr. CARLSON] during the time he was Governor of his great State. That is witnessed by the notable advancement which has occurred in a period of less than 15 years. This one State, inspired by its Governor, has raised its standing in the care of the mentally ill from 45th in the Nation to second; and in many respects in its care and treatment of the mentally ill, it is the first State in the Nation.

I commend the senior Senator from Kansas. He is responsible for the inspiration which caused this rapid advancement in the position of his State in this field.

Mr. CARLSON. Mr. President, I express my appreciation to the distinguished senior Senator from North Carolina [Mr. ERVIN] for his kind remarks with respect to my part in this program. I should like to discuss briefly how this happened, disavowing any ego on my part.

In 1948, as Governor of Kansas, I visited some of the mental hospitals and saw the situation which prevailed. I think those of us who have worked in the field of dealing with the problems of mental health have realized that there has been a division of opinion as between the medical doctors and the psychiatrists; and there was such a division of opinion for a number of years, although I do not think there is so much now. But at that time, as Governor of Kansas, I called into my office Franklin Murphy, the chancellor of Kansas University, and formerly the head of the Kansas Medical Center—a great doctor—and also Dr. Karl Menninger, of the Menninger Clinic and Foundation; and with both of those gentlemen sitting at the head of my desk, I advised them that they would not be permitted to leave my office until we had reached an agreement on a program which would provide for the care of our mentally ill patients.

I can assure Senators that after considerable discussion, some of which was a little rugged, we reached an agreement. And from then on, Kansas has made great progress in this field. It was not due to me, as Governor of the State; but the Kansas Legislature voted large sums of money for the program, and the people of Kansas supported the program, and that is why we achieved those results.

As I mentioned earlier in my remarks, Dr. Menninger said, "We do not care so much about the buildings, but give me trained people." That is why I mentioned the importance of training and brains.

They now have some very fine buildings; but we began with frame buildings and trained psychiatrists, and we have achieved results which I think set a good example for the Nation.

Mr. TALMADGE. Mr. President, will the Senator from Kansas yield?

Mr. CARLSON. I yield.

Mr TALMADGE. I desire to compliment the able Senator from Kansas on the quality of his excellent speech.

I served as chief executive of the State of Georgia during the time when the able Senator from Kansas was the Governor of Kansas; and I remember that during all of the national conferences of Governors the distinguished Senator spoke in most interesting and able fashion on the question of mental health. I recall that on at least one occasion the able Senator led the discussion on that subject and thus made a substantial contribution toward public understanding of the problems of our mental institutions throughout the country.

I know that during the same period of time, tremendous progress was made in improving the facilities and programs of the mental institutions in Georgia; and I always profited a great deal from the discussions the distinguished Senator from Kansas led in the Governors' conference.

So I compliment the able Senator from Kansas, not only for what he did for the State of Kansas, during the time when he was Governor of that State, but also for his continued interest in all matters affecting both the people of Kansas and of the Nation.

Mr. CARLSON. Mr. President, I sincerely thank the distinguished Senator from Georgia for his remarks in regard to the progress we have been making in dealing with the care of those who are mentally ill. It is a pleasure to serve on this floor with Senators who have served as Governors of their States at the time when we attended the Governors' conferences—which gave us associations which I believe bring us a little closer than happens from the ordinary contacts with others. I thank the Senator from Georgia.

Mr. TALMADGE. I thank my friend.

AMENDMENT OF VOCATIONAL REHABILITATION ACT TO ELIMINATE OR MODIFY CERTAIN FEDERAL REQUIREMENTS

Mr. FONG. Mr. President, I introduce, for appropriate reference, a bill designed to amend existing Federal law so as to permit the State of Hawaii to administer efficiently and effectively certain programs supported by Federal contributions.

The necessity for the legislation arises because of an interpretation of existing Federal laws by administrative agencies requiring that a single State agency must be charged with the final administrative responsibility for the operation and supervision of a grant-in-aid program. It has been held that any deviation from this requirement would be fatal to a State plan administering a grant-in-aid program. Under this concept, another agency or authority of government in a State may not be authorized or permitted in practice to substitute its judgment for that of the State agency in administrative decisions involving applications of policy, or rules and regulations under State law.

At its 53d annual meeting in 1961, the Governors' Conference, taking cognizance of this situation, adopted the following resolution:

1. The conference deplores the tendency of Federal agencies to dictate the organizational form and structure through which the States carry out federally supported programs.

2. The Council of State Governments is requested to investigate the matter of Federal statutory and administrative requirements dealing with State organization under the various Federal grant-in-aid programs and to make a report of its investigation to the Governors' Conference Committee on Federal-State Relations, the Advisory Commission on Intergovernmental Relations and the next Governors' Conference.

I am in entire agreement with the position taken by the Governors and, for that reason, am introducing the bill today which will reserve to the State the right to determine the administrative machinery best adapted to efficient administration of the program for vocational rehabilitation.

I request that the attached copy of a letter dated February 27, 1962, written by the Governor of Hawaii to the Secretary of Health, Education, and Welfare, setting forth the need for this legislation, be printed as a part of my remarks.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The bill (S. 3262) to amend the Vocational Rehabilitation Act to eliminate or modify certain Federal requirements that might otherwise prevent constructive reorganizations of the State agencies which are involved in the administration of the program under such act, introduced by Mr. FONG, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The letter presented by Mr. FONG is as follows:

FEBRUARY 27, 1962.

Hon. ABRAHAM RIBICOFF,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR ABE: This is a followup on the discussions I had with you and members of your staff in July of 1961 concerning the problem of the organizational placement of vocational rehabilitation services under the overall reorganization of the State government of Hawaii. As a result of these discussions, it was requested that the State of Hawaii resubmit in writing its justification for placing vocational rehabilitation within the State department of social services so that it could be reviewed by you and your Department.

I am enclosing herewith a staff study entitled "Vocational Rehabilitation Services in Hawaii's New State Government." I believe this presents a sound basis for your Department's approval of a State plan for Hawaii's vocational rehabilitation services which would designate the proposed vocational rehabilitation division of the department of social services as the sole State agency to administer the plan.

As you will see from the enclosed study, the question of where vocational rehabilitation services could best be administered within the new State government has received a great deal of attention by several competent groups over a period of several years. Without exception, it was felt that these services can best be administered along with other rehabilitation services under the State department of social services, or its equivalent.

This objective was written into the Reorganization Act conditional upon clarification of the question of Federal funds. This latter issue became clouded because of differing opinions. However, certain staff members of your Office of Vocational Rehabilitation have insisted that your department would withhold Federal matching funds if the State of Hawaii carried out its announced plan organizing rehabilitation services under a single Department of Social Services.

You will note, by the enclosed study, that activities throughout the Department of Social Services are rehabilitation focused, whether the rehabilitation activity is one of a social, physical, economic or vocational nature or a combination, as is often the case. It certainly seems logical—I'm sure you'll agree—to have these related services brought together rather than segmented for the most effective administration of all of the affected program.

Accordingly, I wish to request that you carefully review this whole matter and advise us whether or not it will be possible for us to proceed with the full implementation of our State reorganization by transferring vocational rehabilitation to the Department of Social Services. Your consideration and favorable action on this request will be greatly appreciated.

Sincerely,

WILLIAM F. QUINN,
Governor of Hawaii.

PROPOSED CHANGES IN GRADUATED INCOME TAX RATE SCALE—ADDITIONAL COSPONSORS OF BILL

Under authority of the order of the Senate of April 26, 1962, the names of Senators HUMPHREY, CARLSON, PROUTY, GRUENING, SMITH of Massachusetts, SMITH of Maine, HART, NEUBERGER, RANDOLPH, MOSS, and YOUNG of North Dakota were added as additional cosponsors of the bill (S. 3222) to amend the Internal Revenue Code of 1954 to extend the head of household benefits to all unremarried widows and widowers and to all individuals who have attained age 35 and who have never been married or who have been separated or divorced for 3 years or more, introduced by Mr. MCCARTHY on April 26, 1962.

NOTICE OF RECEIPT OF CERTAIN NOMINATIONS BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. FULBRIGHT. Mr. President, as chairman of the Committee on Foreign Relations, I desire to announce that today the Senate received the nominations of William P. Mahoney, Jr., of Phoenix, Ariz., to be Ambassador to the Republic of Ghana, and Lucius D. Battle, of Florida, to be Assistant Secretary of State for Educational and Cultural Affairs.

In accordance with the committee rule, these pending nominations may not be considered prior to the expiration of 6 days of their receipt in the Senate.

NOTICE CONCERNING NOMINATION BEFORE COMMITTEE ON THE JUDICIARY

Mr. ERVIN. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary.

Louis C. LaCour, of Louisiana, to be U.S. attorney, Eastern District of Louisiana, for a term of 4 years, vice M. Hepburn Many, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, May 14, 1962, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 1139) to amend the act granting the consent of Congress to the States of Montana, North Dakota, South Dakota, and Wyoming to negotiate and enter into a compact relating to the waters of the Little Missouri River in order to extend the expiration date of such act.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 62) commemorating the 25th anniversary of the establishment of soil conservation districts.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. GOLDWATER:

Speech on Government control of the economy, delivered by Senator GOLDWATER before the District of Columbia League of Republican Women, Washington, D.C., May 7.

By Mr. WILEY:

Weekend radio address delivered by himself over Wisconsin radio stations, regarding the legislative outlook relating to agriculture.

By Mr. PROXMIRE:

Remarks by Representative J. FLOYD BREEDING at a meeting of Kansas Democrats in Topeka, Kans., on April 28, 1962.

AMENDMENT OF IMMIGRATION AND NATIONALITY ACT OF 1952

Mr. SALTONSTALL. Mr. President, recently I have been asked many times: Will Congress pass a new immigration law this year? And I have replied that I hope we will do so. Our present law is outmoded.

In fact, special congressional action has so changed the practical result of the 1952 act that today it is more honored in the breach than in the observance. Of the 2.5 million immigrants to this country during the 1950's, only 1 million were admitted under the provisions of the 1952 Immigration Act. The majority, 1.5 million, were nonquota, entering by means of special supplementary legislation of the Congress.

Thus it is clear that Congress has recognized the deficiencies in the act of 1952 by passing this volume of special immigration and refugee legislation to supplement and even to circumvent it. Such piecemeal patchwork truly makes a mockery of the 1952 act, but the act itself remains as an unfortunate symbol of discrimination. We need a new law, one which is in accord with present-day realities. Our law must express our genuine concern for less fortunate people who wish to become American citizens.

Immigration has had many desirable results. Families have been united, refugees given an opportunity to create new lives, and we in the United States have profited from the skills and talents of thousands of hard-working recent arrivals. Think of the work of Fermi, Einstein, Von Braun, and others of their stature whose genius and devotion have helped to build our strength and, yes, even providing for the very safety of our country. And yet there are many other immigrants who do not need to achieve nationwide acclaim to lend strength to our Nation.

Immigrants make good citizens. They work hard and apply themselves diligently to making a good home and living for themselves and their families. They are good family people and it is mighty satisfactory to a man like myself if I can help to unite families who have been separated because of hardships, or the inability to get together in a new country where they want to become citizens.

The United States has a responsibility as a leader of the free world in the struggle against the closed and walled-in Communist society. We must never forget that an important part of our image in the United States has been built up as a friend for those seeking escape from oppression and want. Are we to ignore the importance of that image which has helped to make us friends in other parts of the world? Will those whose support we covet be able to say that while we may give them economic assistance and military help, we will not welcome them into our country? Will we sabotage that effort by maintaining immigration regulations which to peoples everywhere appear to run counter to the ideals we profess?

Our present quota system has drawn more justified criticism at home and abroad as being hopelessly archaic than almost any of our other existing laws. As a first step, national quotas should be based on the 1960 census. There is no logic in tying them to a census of more than 40 years ago which no longer mirrors our national origin background. The large number of countries which do not exhaust their quotas under the present system, combined with the tremendous oversubscription which characterizes the situation in other countries, provides further evidence that the 1952 act has outgrown its usefulness.

In addition to establishing the 1960 census as the basis for new legislation, we can certainly consider adding some provisions for making use of the unused quotas which prevail in many countries. Surely we can consider also increasing quotas in a small amount from the present 154,000 limitation.

In short, the present Immigration Act is outdated, and it is necessary to amend it to bring it up to date. Commonsense and sound legislative policy dictate that we act to remedy the defects in our immigration policy in this session of the Congress. I hope we may do so.

ACCESS RIGHTS TO WEST BERLIN

Mr. BUSH. Mr. President, on Wednesday last three of my colleagues performed a significant service by bringing to the attention of the Senate the dangers of compromising our position in Berlin. The Senator from Pennsylvania [Mr. SCOTT] called upon the Armed Services and Foreign Relations Committees to consider the feasibility of studying a recent U.S. proposal on access rights to West Berlin. His recommendation that these committees consider calling upon General Clay for his views surely should receive serious consideration.

The Senator from New York [Mr. KEATING] said:

> To enter into negotiations in which the East German government may have some say over access rights to West Berlin would be a bitter renunciation of our position.

The Senator from New York [Mr. JAVITS] likewise raised a word of warning that "concessions inconsistent with fundamental Western policy would be far worse than the status quo."

Mr. President, I believe that my colleagues should be complimented for their timely awareness of possible concessions of our basic right of access to West Berlin. I was happy to see that the lead editorial of the New York Herald Tribune of Friday, May 4, has recognized the service performed by these members.

I ask unanimous consent, Mr. President, that the editorial to which I referred be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. HICKEY in the chair). Is there objection?

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DIPLOMACY ON THE SENATE FLOOR

The concern that has been voiced abroad—especially in Bonn—over the reported American proposals for a Berlin settlement, has found expression in the Senate.

It comes from impressive sources, Senators SCOTT, JAVITS, and KEATING, although all Republicans, cannot be accused of mere partisanship. They have always taken active and responsible parts in debates on foreign policy, and have shown themselves to be thoughtful and well informed.

When, therefore, they unite in warning the Kennedy administration of the dangers implicit in a settlement that might erode, rather than strengthen, the position of the West in Berlin they are entitled to a respectful hearing.

It may well be that the semisecrecy obscuring the administration plan is responsible for much of the trouble. It has been reported, and seems to be accepted as a fact, that the United States has suggested some kind of international commission to control the access routes to West Berlin—a commission on which East Germany will be represented. Such representation could be equivalent to recognition of East German sovereignty. This is one of the great objects of Soviet diplomacy, since it would be tantamount to insuring international status for a permanently divided Germany.

On the other hand, as a matter of existing fact, there have been large numbers of routine contacts between East Germany and the West. Such contacts could be continued, or even expanded, on an international commission without any further de facto acknowledgment of East Germany's official existence. The extent to which the United States is prepared to go in this matter, in other words, is a matter of degree—and neither the Senate nor the public at large knows just how far that is.

It is not easy nor is it generally wise to attempt to conduct diplomacy from the floor of the Senate. But that body is constitutionally charged with a role in foreign affairs, and the increasing reliance of the Executive upon international agreements that do not require senatorial consent does not make it any less necessary for the administration to keep the Senate informed. If a failure in communications is responsible for the Republican attacks on the subject of Berlin, Mr. Kennedy and Mr. Rusk should see to it that the lines to Capitol Hill are opened, promptly.

In addition, both the President and Premier Khrushchev should take note of the seriousness with which the Berlin issue is regarded in this country. Mr. Kennedy should not be hamstrung in his negotiations over Berlin; admittedly the process of inter-

national bargaining is a complex one, and public debate on it can frustrate the best efforts of the diplomats.

But the temper of the Senate and the American people, cannot be disregarded with impunity, by its own or by any other government.

INFLATION AND BUSINESS

Mr. BUSH. Mr. President, I ask unanimous consent that an editorial entitled "Inflation and Business," published in today's issue of the Wall Street Journal which calls attention to the facts, be printed at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

INFLATION AND BUSINESS

For almost a generation now the thinking of the country has been pretty much dominated by the idea that inflation is a sure warranty of prosperity.

True, inflation has been complained of on many grounds, such as its unfairness to widows and pensioners and its propensity for turning economic life into a rate race. But while these ill effects have been deplored, it has still been accepted as gospel that inflation will nonetheless keep business swirling and provide a bulwark against depression.

As preached in Washington, this gospel says that while inflation cuts the purchasing power of each dollar this effect is more than offset by the increased number of dollars which increase purchasing power and raise the gross national product. It's even been argued that by this simple device a multi-billion-dollar Government deficit will create a surplus because the Government will get back so many more of the cheaper dollars in taxes. The Government is now budgeting on this theory.

Along Wall Street and Main Street this has been interpreted to mean that you can protect yourself against the disadvantages of inflation and reap its rewards simply by buying real estate or common stocks. After all, if inflation has become a "way of life," how can the stock market go any way but up?

These articles of faith rest upon two assumptions. The first is that the inflationary process can be endlessly repeated with the same stimulating effect. The second is that the effect will be more jobs for labor and more profits for business.

This, of course, was the effect in the first years of the postwar inflation. The war years not only brought huge increases in the supply of credit dollars but they also left the country with an enormous pent-up demand for just about everything. So from 1946 to 1950 inflation and rising profits for business did go hand in hand.

For one illustration, in 1946 the earnings per share of the stocks in the Dow Jones industrial average amounted to $13.62. A bare 4 years later, in 1950, they had doubled, to $30.70. Here, or so it seemed, was proof positive of the doctrine. And so the country continued in the decade after—through Democratic and Republican administrations—a policy of inflationary deficits. The public not only accepted this from the politicians; it encouraged them.

But the effects were quite different. Although the monetary inflation continued, with both wages and prices rising, the number of unemployed steadily increased and the profits of business increased hardly at all. Look at the earnings per share of those same companies that make up the industrial averages: In 1950, $30.70 a share. In 1960, $32.21 a share.

Or consider the case of one of our biggest industrial companies, which has lately been in the news, United States Steel. The first postwar inflation shot its earnings from $1.22 a share to $3.65 a share. But in 1960, after 10 more years of inflation, it could raise its earnings to only $5.17 a share. And the following year its earnings dropped below what they had been a decade earlier.

This being the case, why did the stock market take off on the biggest boom in history? For it did. During the same decade, the Dow Jones industrial average shot up from the 200 level to the 700 level. The market price of United States Steel itself rose from 20 (adjusted for changes in the number of shares) to 100.

The explanation can be found in another statistic. In 1950, for the shares represented in the industrial average, the market price was about seven times the per share earnings. In 1960 this price-earnings ratio was more than 21. On United States Steel stock, to choose a particular example, the price-earnings ratio skyrocketed from less than 9 to more than 27.

In short, for stocks having roughly the same earning capacity a decade apart, people at the end of the decade were paying many times the price for those same dollar earnings as at the beginning of the decade. They did this largely under the spell of the gospel that continued inflation was a guarantee of more economic growth in everything, including profits for business.

This gospel never made much sense; at the very most, it expressed only a half-truth. Conceivably if the inflation of the monetary supply could spread its effects evenly at all times throughout the economy, profits measured in dollars might have increased. Of course this would still give only an illusion of greater prosperity because the dollars would be worth less. But in practice even this did not happen. The costs of doing business—particularly labor costs but also taxes—rose far more rapidly than prices for the end product. At the moment wage costs are still rising; prices are not.

Thus the cost squeeze, dramatized most recently by the steel industry. Its wage costs went up another 10 cents an hour. It could not raise its prices.

But it's not only in the stock market that the boons of inflation have proved a delusion. By almost any standard you choose for measurement—unemployment, our economic position in world trade, the strength of the dollar, as well as business profits—a decade of almost continuous monetary inflation has simply not produced the wonders that the economic managers promised in their prospectus.

We don't know, really, why anybody ever thought it would.

Mr. BUSH. Mr. President, the article calls attention to the fact that, despite a decade of almost continuous monetary inflation, we have not produced the wonders that the economic managers have promised in their prospectus, and that by almost any standard for measurement—unemployment, our economic position in world trade, the strength of the dollar, as well as business profits—our progress has not at all shown a satisfactory increase.

JAMES M. NORMAN—LITERACY TEST FOR VOTING—MOTION FOR CLOTURE

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. DIRKSEN. Mr. President, first I wish to commend and compliment our distinguished majority leader, the Senator from Montana [Mr. MANSFIELD], for the good and reasoned statement he made today. It was complete and accurate, and I believe it sets forth the whole story of the issue that now confronts the Senate. I think he is to be commended for the very forbearing and temperate approach that he has taken all along on the problem. That is characteristic of our distinguished majority leader.

Long ago when we were discussing the subject he said that he did not believe that there was any virtue in having unduly early sessions of the Senate, and there have been no such sessions. He indicated that there was no particular force in keeping the Senate in session until an inconvenient hour in the day, which might embarrass Senators in their various individual schedules. Every Senator can rise and testify to the fact that the Senate has not been kept in session to a late hour. In my judgment there has been ample time to ventilate the issue that is involved here, and from as much of the discussion as I have heard from time to time, it would appear that virtually all the emphasis was on the constitutional issue with respect to the qualifications of voters as a State power, as distinguished from a Federal power.

In that connection I made some remarks on the proposal and I inserted in the RECORD two memorandums on the constitutional issue. One has been prepared very painstakingly and over a long period of time by the Department of Justice. It cites virtually every pertinent case. The other memorandum was prepared by the Civil Rights Commission. The Civil Rights Commission had the benefit of the best legal talent that was available. So with those 2 documents, plus the statements, plus 670 pages of hearings on the question, the Senate, in my judgment, has sufficient information to come to grips with the issue and to resolve it if it can.

I believe it has been discussed enough. I think in good grace we come before the Senate with a petition of cloture. I do not believe that the petition in any wise demeans the character or the deliberate approach of the Senate. Everyone knows that the cloture rule has been on the Senate rule book since 1917. For the past 45 years it has been possible for 16 Senators to affix their names to such a petition, in the hope that at long last discussion of some issue before the Senate could be brought to a close and that a vote might be had, after allowing to each Senator the time that the rule provides.

Who can say that the cloture petition as such demeans the Senate, when it is a part of our standing rules? Who will say that it embarrasses in the slightest degree the deliberative character of this body?

There has to be, finally, some way to conclude debate. If it cannot be concluded in one way, then it is necessary to resort to whatever devices are available for the purpose of getting a vote on an issue.

As the majority leader has pointed out, if the cloture motion fails, and if it fails substantially, then perhaps there is nothing else to do except to make the motion, awkward and embarrassing as it

may be, to table the pending bill, so that every Member of the Senate may have an opportunity to be counted on the issue.

I was confronted with the problem once before in the previous Congress, when we had a package of civil rights measures before the Senate. I found myself in the rather infelicitous position of having to move to table one of my own proposals. It did not bother me. It was the only way in which the Senate could get an indication on the RECORD of what the attitude and the approach of the Senate might be.

So, Mr. President, there is not any other thing to do now. Our action has been taken in reason and in sweet temper. I commend highly the majority leader for the very equitable and reasonable way in which he has dealt with this whole problem, never losing his temper, never losing his sense of reasonable approach in dealing with a problem that is highly controversial and often shot through with emotionalism.

There is not involved here any proposal of setting aside or ignoring or eroding the Constitution of the United States. The rule is a rule of the Senate, and it has been a part of the rules of the Senate for 45 years. Long before now, if it was felt deeply that the rule was a power or an authority to subvert the Constitution of the United States, a movement should have been undertaken in every session of the Senate since that time to either modify or repeal the rule.

The rule has been a rule of the Senate for 45 years, and any Senator who resorts to it is in good form and in good order under the Constitution of the United States, and is within the rules of the Senate.

Once more I commend the majority leader of the Senate for the way in which he has approached this very difficult problem.

WITHHOLDING OF TAX ON DIVIDENDS AND INTEREST

Mr. MANSFIELD. Mr. President, I wish to commend the senior Senator from Illinois [Mr. DOUGLAS] for the penetrating address he delivered last week on the status of the President's proposal to withhold at the source the tax due on dividends and interest. A massive letter-writing campaign is underway against this proposal. A great many people appear to feel that this is a new tax, or a tax on the savings accounts themselves. Nothing could be further from the truth. The Senator from Illinois did a brilliant job explaining what the proposal does, and in exposing the efforts being made to confuse the public's understanding of it.

Similar efforts were made in the House, and a majority of Congressmen stood firm against them. I trust the same result will occur in this body.

In yesterday's New York Times there appeared a cogent article on this question, under the United Press International byline. It includes a question-and-answer discussion of the proposal that I believe Senators may find useful in replying to inquiries from their constituents. I ask unanimous consent that the article may be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAX-BILL FIGHT BACKFIRES IN SENATE

WASHINGTON, May 5.—A massive mail campaign against President Kennedy's proposed withholding tax on dividend and interest income showed signs today of boomeranging.

The avalanche of protest letters from taxpayers has convinced some Senators that nonpayment of tax on interest and dividend income may be more widespread than the Treasury had estimated.

Senator PAUL H. DOUGLAS, Illinois Democrat, told the Senate this week that one-third to one-half of the more than 30,000 letters he had received indicated the writers believed erroneously that dividend and interest income was not taxable.

Senator HARRISON J. WILLIAMS, JR., New Jersey Democrat, said he had been deluged with mail but that much of it had revealed an incredible amount of misunderstanding and distortion.

Senator WILLIAMS said the well organized mail campaign had made him realize that many seem to think a new tax is being imposed, but dividend and interest income has been subject to taxation since 1913.

Savings institutions have taken ads in some area encouraging taxpayers to write. Senator JOHN SHERMAN COOPER, Kentucky Republican, told the Senate the advertising was often misleading.

WITHHOLDING PROVISION

The proposal, part of the administration tax reform bill already passed by the House and now pending before the Senate Finance Committee, would impose a withholding tax of 20 cents on every dollar of income from dividends and interest.

Two Senators went on record this week against it. One of them, Senator SAM J. ERVIN, JR., North Carolina Democrat, said Friday it would impose "intolerable record-keeping burdens on both the Government and private financial institutions, and grave hardships upon taxpayers dependent for their livelihood upon income from these sources."

The other, Senator HUGH SCOTT, Pennsylvania Republican, said in remarks prepared for the Pennsylvania Bankers Association at Pittsburgh that the proposal was an administrative monstrosity.

He said it would strike hardest at low-income groups and deprive them of their income for unnecessarily long periods of time.

MAIN ASPECTS OF BILL

Here in question-and-answer form are some of the main features involved:

Question. Is this a new 20-percent Federal tax?

Answer. No. Income from dividends and interest always has been taxable. The Treasury estimates it loses $800 million a year because taxpayers, either deliberately or by oversight, do not report it on their income tax returns. The bill would recapture $650 million of this by withholding 20 percent at the source.

Question. How many people would be affected?

Answer. About 22,500,000 persons who have savings accounts, stocks, or Government and private bonds.

Question. Would it be the same as withholding, which has been in effect for 20 years, except that it would be a flat 20 percent?

Answer. If a person had a $100 savings account paying $4 interest a year, the withholding would be 20 percent of $4 or 80 cents, not 20 percent of the $100 account.

Question. Would every person have to pay, even widows and elderly citizens who depend on fixed investment income?

Answer. No. The House bill permits certain elderly persons and others who expect to owe no taxes at the end of the year to file certificates exempting them from the withholding operation. Youths under the age of 18 also would be exempt.

QUARTERLY REFUNDS

Question. How about persons who may own only $40 or so in taxes?

Answer. The Treasury estimates that 2 million individuals will end the year with the Government withholding too much. But the excess will amount to only $10 or less a year for 1 million of these. In all such cases, the taxpayer may file for refunds every 3 months for overpayment. After the first quarter, the Treasury automatically mails a refund form for the next filing.

Question. Would the program cost too much to administer, or involve much new paperwork?

COST OF COLLECTION

Answer. The Treasury estimates it will cost $19 million to collect $650 million. There is no doubt that the refund claims, exemption certificates and the like will cause taxpayers additional burdens. Banks, corporations, and institutions that do the withholding will have more paperwork. But banks can recover some costs by retaining the amounts withheld as long as 4 months. Corporations already withhold on dividends to certain alien stockholders.

Question. Would this be in addition to wage withholding?

Answer. Yes. The Treasury notes that 73 percent of the wage earners have claims of excessive withholding and they get no refunds until the end of the year. Only about 13 percent of those with dividend and interest income would be due refunds, and many could get these quarterly.

Question. Could not the new automatic data processing equipment detect evaders with institution of the proposed program?

Answer. No. The data processors do not collect any taxes. They merely audit returns to expose unreported income. Besides, the system does not go into effect until 1966. Withholding would collect 20 percent, or $650 million of the estimated $800 million dividend-interest income now escaping taxation. The Treasury says automatic data processing could be concentrated on the remainder, most of which involves higher income individuals who are in tax brackets above 20 percent.

JAMES M. NORMAN—LITERACY TEST FOR VOTING—MOTION FOR CLOTURE

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. KUCHEL. Mr. President, the gantlet on the pending issue has now been thrown down. I for one am glad that it has been. I speak as a Republican in saluting the leadership of our friend, the gallant Senator from Illinois [Mr. DIRKSEN], and I salute also the majority leader, the Senator from Montana [Mr. MANSFIELD], in the action they have both taken in filing, as is their right under the rules, a petition for cloture, upon which some of us on both sides of the aisle have joined.

A few weeks ago we had the first filibuster of 1962, with respect to the issue of poll taxes, and whether or not by statute or by constitutional amendment they ought to be eliminated in this free

land of ours. I dubbed that filibuster at that time as a friendly filibuster. Today, with respect to the literacy test issue, brought here by the leaders of both parties, we again have a filibuster. I suggest that this might be dubbed a painless filibuster.

It is true that you and I, Mr. President, have not been subjected to the indignities usually associated with a filibuster, by which we have been compelled to be present in the Chamber 24 hours a day, day in and day out, for many weeks. Painless though it may be, it is still a filibuster, and the petition for cloture will give Members of the Senate an opportunity to say whether or not now, after many days and long, long speeches, the Senate is ready, relying on its rules, to bring the debate to a conclusion.

I congratulate the two leaders also because if, as I hope will not be the case, a two-thirds vote is not lodged in favor of ending the filibuster then Senators will be given an opportunity to vote on the issue involved, and that is whether the U.S. Senate wants to end the perpetration on American citizens of a denial of their constitutional rights merely because of the tincture of their skin. I hope more than a simple majority, in fact, I hope a convincing majority, of the Senate will vote against the motion to table. It will demonstrate that, given a chance to sit in judgment on this issue, the Senate believes, with both parties participating, that legislation ought to be adopted to eliminate, so far as Federal elections are concerned, literacy tests which, in truth and in fact, are utilized to deny American citizens their constitutional right to vote.

I am glad, too, that the gauntlet has been thrown down in this Chamber that if the desires of a clear majority of Senators are stultified by a filibuster, the day is fast approaching when a majority, acting under the Constitution, will change the rules once and for all and will provide that after free and open and reasonable debate of considerable length the Senate may move forward and vote, up or down, whatever issue pends in this hectic age through which the world is passing.

Mr. SALTONSTALL. Mr. President, I offer an amendment to the amendment proposed by the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN] to the bill (H.R. 1361) and ask that it be read. I ask unanimous consent that this may be done in the morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The LEGISLATIVE CLERK. On page 2, line 7, immediately after "private school," it is proposed to insert the following: "in which classes are taught primarily in the language used on the ballot or voting machine."

On page 2, beginning with line 11, strike out all down to and including line 21.

On page 2, line 22, strike out "(f)" and insert in lieu thereof "(e)".

On page 3, line 20, immediately after the word "school" insert the word "located."

On page 3, line 21, immediately before the period, insert the following: "and in which all classes (other than classes in languages) were taught primarily in the language, or one of the languages, used on the ballot or voting machine which would be used for voting by such person."

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table, to await action on the cloture motion.

Mr. KEATING. Mr. President, I join in the commendation of the distinguished majority leader and the distinguished minority leader for the action they have taken with respect to the cloture motion. Throughout the debate, they have been patient and fair.

The present filibuster has not set any new records. The Senate has not been called into session for long hours each day or to sit at night. It has not been necessary to move cots into an assigned area, on which to rest. There have not been any midnight alarms to produce a quorum on the Senate floor. The proceedings might more appropriately be called a filibusterette; nonetheless it is a member of the filibuster family, whatever name may be given to it.

It is apparent that sufficient time has now elapsed to consider bringing the issue to a vote. However, it should be pointed out that a vote for cloture on Wednesday will not end this debate. Under the rules, up to 100 additional hours will still remain for debate, 1 hour for each Senator. Any new arguments which could be advanced for or against the proposed legislation certainly can be made within that time limit. Thus plenty of time still will remain for meaningful debate.

At the same time, cloture will make it impossible for a minority of Senators to prevent the Senate from expressing its will on this issue. It is not time for debate which Senators who oppose cloture desire, but the defeat of this issue without any vote. Cloture is authorized under the rules of the Senate. We are proceeding under those rules. They are stringent. In my opinion, they are too stringent. I think that may have been demonstrated in the course of this debate; nevertheless, the rules are being complied with in every particular by the cloture motion.

This occasion will provide a test of whether a majority of the Senate after full debate can work its will on a piece of proposed legislation under the existing rules, or whether the rules need to be amended to permit the Senate to work its will as the American people expect us to do.

One word with respect to the argument made by the distinguished Senator from Georgia [Mr. RUSSELL] about amendments. I shall present, either later today or tomorrow, an amendment, to be read, which will extend this measure to State elections. It is clear under rule XXII that such amendments can be considered during proceedings under cloture as long as the amendment is presented and read prior to the vote in cloture, not prior to the time the motion for cloture was filed. I can find nothing in the rules clearer than the statement:

> Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time.

The rule does not provide that the amendment shall have been presented prior to the time when the motion for cloture was filed.

In my judgment, it is clear that amendments presented and read prior to the cloture vote on Wednesday will be in order.

TEXAS PRIMARY VOTE ON ABOLITION OF POLL TAX

Mr. HOLLAND. Mr. President, I am happy to announce to the Senate that the issue was presented to the Texas electorate on Saturday as to whether the poll tax, as it has prevailed in that State for some years, should be abolished. The issue was presented as a party matter to both the Democratic primary and the Republican primary. I learn from the Associated Press that, by a substantial vote, both parties, through the voters participating, approve the repeal of the poll tax by State law.

However, I must also advise the Senate that these referenda have no binding force; they are simply recommendations, of the many more than 1 million voters who participated, to the legislature to act at its next session to abolish the poll tax as a State requirement for voting.

I am pleased to announce this development. I hope it means that the Nation is, as I felt it should be when the Senate debated the question some weeks ago, moving in the right direction; that is, to abolish a material and technical requirement like the poll tax which has no direct relation to the competence of the citizen to pass on important public issues.

THE ADMINISTRATION SHOULD REVERSE ITS ILLOGICAL POLICY ON SUBSIDIZING OUR GOLD MINING INDUSTRY

Mr. GRUENING. Mr. President, from time to time, on the floor of the Senate, I have discussed the plight of the gold industry in the United States and the need for the adoption of immediate remedial measures if the United States is to remain a gold-producing nation at all.

This is not a case of crying wolf.

One after another, gold producing mines are being closed.

The tragic part of this sorry picture is that we are closing down our gold mines at precisely the time when our gold supplies are being steadily depleted.

Last Friday, together with my colleague, the junior Senator from Montana [Mr. METCALF], and Representative RALPH RIVERS, of Alaska, a representative from the office of my colleague, Senator BARTLETT, as well as a number of other Members of the other body, I met with the Secretary of the Treasury, Mr. Dillon, in an effort to modify the Treasury Department's adamant opposition to

Senate Joint Resolution 44 to provide a subsidy for newly mined gold.

I hope we were able to impress upon Mr. Dillon and his staff the seriousness of the current situation. It seemed to me outrageous that we should in effect through our foreign aid program be subsidizing mining abroad whereas when a similar proposal is presented for adoption here at home it meets strong opposition.

We made it crystal clear, Mr. President, that we were not seeking to raise the price of gold above the present price of $35 per ounce.

We did voice our unbelief that anyone could misconstrue a subsidy paid by the Secretary of the Interior for newly mined gold as an increase in the price of gold paid by the Secretary of the Treasury. Under our proposal, these would be separate and distinct actions.

It is intolerable to keep the gold mining industry in the United States in a straitjacket by forcing it to sell at 1934 prices while paying 1962 prices for the materials and labor needed to produce that selfsame gold.

For my own part, I am perfectly willing to accept an amendment to Senate Joint Resolution 44 pegging the price of gold at $35 per ounce and serving notice on the world that we are willing to buy any quantity of gold at that price. Such a declaration by statutory enactment should make it clear to the world that the price of gold is not being and will not be changed.

I am disturbed, Mr. President, at the persistent rumors as to the action by the Soviets. These rumors are coming from too many sources and square with too many proven facts to be totally and safely ignored.

We cannot take a chance.

If there is truth to these rumors—if they should have a factual base—and the Soviets are mining gold at a huge rate and intend at some future time figuratively to put a gold ruble on the market, it will then be too late to subsidize the gold mines of the United States. It will then be far too late to halt the shift of the financial center of the world from the West to the East.

I have said before—and I reiterate—that gold is a weapon in the cold war in which we are now engaged. We must arm ourselves with the weapon as we are today arming ourselves with the other materials of war. But more than a weapon of war, gold is also a weapon of peace. If we are to continue to pour our wealth into foreign, underdeveloped countries in any effort to bring about their economic development we must maintain our own strength. We cannot do that unless we supplement our gold reserves. And we cannot maintain our gold reserves without a subsidy.

Those of us who met with Secretary Dillon Friday received his assurance that he would take this matter up with the international bankers with whom he is to meet in Rome in the next 10 days. We would expect him to do so and we would further expect that he would do an effective selling job of convincing them that the payment of a subsidy would in no way affect the price of gold. For my own part, I believe that this is a matter for decision by our own Government since it is extremely difficult if not impossible to see any connection between a subsidy for mining gold and an increase in the price of gold.

I hope that the Secretary of the Treasury, when he comes before the Senate Subcommittee on Minerals, Materials, and Fuels on May 23, 1962, will recommend the speedy enactment of Senate Joint Resolution 44.

Actually the $35-an-ounce subsidy which it proposes is in my judgment not adequate. It would help substantially. It would keep going some of the gold dredges that will shortly suspend operation. It will keep some of the gold mines that are still operating from closing. But a more realistic figure of a $70 subsidy would bring the entire gold mining industry into production. It would replenish our rapidly dwindling gold reserves. It would show—that as President Kennedy showed when he increased our Armed Forces in the face of Russian Communist aggressiveness in response to his efforts at understanding—that the United States means business in the economic as well as in the military aspects of the world struggle between East and West, that we as a nation appreciate that gold is a weapon in the cold war, and that we intend to use it.

PUBLIC OWNERSHIP NECESSARY FOR PROTECTION OF PUBLIC INTEREST IN SPACE SATELLITES

Mr. YARBOROUGH. Mr. President, one of the great issues before Congress is the question of ownership in the U.S. portion of a worldwide satellite communications system. I am cosponsor of a bill with Senator KEFAUVER and others that would keep this vast natural resource, developed at taxpayer's expense, in Government hands for the benefit of all people.

Our Nation cannot afford to give away to a private monopoly this great force for world peace and for better understanding among all people.

It is true that there have been numerous advocates of private ownership but it is my belief that their position is based primarily on an inadequate consideration of all the facts involved. One of the assumptions made by those who favor giving away this tremendous public investment has been that a private monopoly would be adequately regulated by existing governmental machinery in such a way as to protect the public interest.

On this point I would like to submit for the RECORD an article from the New York Times of Wednesday, April 25, 1962. This article reports on a special study of Government regulation of the communications industry for the Bureau of the Budget by Booz, Allen & Hamilton, a firm of private management consultants. The study states that for lack of finances, personnel, and equipment there has been inadequate Government regulation of the telephone industry over the past 26 years. The study concludes that the regulatory agency is unable, for the reasons previously stated, to meet its public responsibilities and that the agency has, therefore, been ineffective in protecting the public interest where telephone rates are concerned.

The Congress has a major share of the responsibility for failure to furnish the money to enable the Federal Communications Commission to regulate interstate telephone rates.

We should not hasten to give away the space communications satellite system and to entrust the public interest to regulation of a private satellite communications system until we in Congress have taken whatever action is necessary on our part to correct the record by furnishing money and personnel for proper regulation, and have seen a demonstrated success.

I ask unanimous consent to have printed in the RECORD an article entitled "FCC Said To Fail in Meeting Duties," from the New York Times of April 25, 1962.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FCC SAID TO FAIL IN MEETING DUTIES

(By Felix Belair, Jr.)

WASHINGTON, April 24.—A team of management experts reported today that the Federal Communications Commission was unable to discharge its public responsibilities and urged its immediate overhaul.

Inadequate equipment, personnel, and financing in the face of explosive advances in telecommunications has left the agency unable to carry out its functions, the report said.

The report added that, because of insufficient attention to the method and basis of ratemaking, the Commission could not say whether interstate telephone and telegraph rates were just and reasonable.

The survey was made by the concern of Booz, Allen & Hamilton, management consultants, at the request of the Bureau of the Budget. The study will cost the Bureau about $60,000.

Although it listed 21 rate reductions negotiated with the American Telephone & Telegraph Co., since 1935, the report said: "The Commission has established no firm criteria governing such rates of return and does not demonstrate that the reductions negotiated actually bring the overall rate of return down to reasonable limits. "This activity merits far greater emphasis if the public interest is to be properly served."

STAGGERING BURDEN

Part of the agency's regulatory deficiency was ascribed in the report to the staggering burden resulting from expansion of communication services and introduction of new industries. But it said this was not true of regulation of telephone companies.

The Common Carrier Bureau of the FCC which has jurisdiction over all telephone and telegraph media, was never "organized, staffed or equipped to be entirely successful," the report said.

The Bell System accounted for 96 percent of the telephone service and 97 percent of the operating revenues received by all telephone companies fully subject to FCC regulations. To this the report added:

"About 25 percent of Bell System operating revenues are derived from interstate and foreign operations and the percentage is increasing. The existence of this huge strategic enterprise places a particular burden on the Federal Government to look to the public interest."

For lack of staff and funds the Common Carrier Bureau's regulating of telephone companies "are performed in a superficial

manner or are performed for a small fraction of the total area of responsibility," it said.

The report cited the following illustrations:

Bell System purchases in 1960 from its subsidiary Western Electric Co. totaled $1,800 million, "which amount becomes part of the rate base on which the Bell companies expect a return." But apart from a review of periodic reports, "no examination of the books of Western Electric or other leading telephone equipment manufacturers has been undertaken to determine the reasonableness of charges to the Bell System."

"Since January 1956, accounting compliance reviews have been accomplished for only 14 of 24 Bell System companies and 9 of 40 independent telephone companies.

"The method of timing and billing long-distance telephone calls never has been adequately examined."

Depreciation rates—"a major factor in an industry with an increasingly faster rate of obsolescence for much of its equipment"—must be prescribed by the FCC. "Rates of Bell System companies can be reviewed every 3 or 4 years at best. * * * No depreciation rates have been prescribed for the independent companies subject to the FCC."

The report said this partial listing was subject to "considerable extension" and added:

"The point is that the bureau is in no position to establish the reasonableness of charges in most areas of common carrier service."

BUDGET INCREASE URGED

To correct deficiencies in the agency's organization and management the report proposed creating several divisions and consolidating others. It recommended substantial increases in budget and personnel and a shift to automatic data processing for much work now carried on by staff personnel.

The report gave no estimates of the budget or personnel increases required. Apparently this was left for the FCC to justify in its estimates to the Bureau of the Budget.

As in earlier reports on the Interstate Commerce and Securities and Exchange Commission, the management group proposed to increase the power of the agency's chairman.

The establishment of the position of executive director was also urged to help the chairman control staff activities.

Both proposals are almost certain to be attacked in Congress as an attempt to transfer to the chairman the authority now shared by the seven members of the Commission.

The summary conclusion of the report was that while the FCC as now constituted "is not equipped to realize fully its statutory objectives," this did not imply that the agency was "ineffective in its essential functioning.

"On the contrary, with its present administrative equipment, the FCC is a viable agency doing reasonably well under many handicaps," it stated.

NEED FOR MONITORING

The report emphasized the need for more effective monitoring and inspection of licensed radio station. It said that radio frequency interference had reached alarming proportions in the United States.

"Interference caused by radio emissions of industrial equipment such as heaters and arc welders threatens the safety of air travel in some locations," it said.

"In the Gulf of Mexico," the report added, " 'shrimpboaters' casually invade the international distress frequency to exchange information about the movements of their quarry or even to order groceries, with the result that a ship in distress might well have difficulty contacting the Coast Guard."

The Field Engineering and Monitoring Bureau does a good job with limited resources, according to the survey, but the results fall short of requirements.

While the bureau had performed near miracles in rehabilitating or adapting used or surplus equipment, "there is a limit to which utilization of 'hand-me-downs' can be carried," the Report warned.

It said the same was true of enlisting the help of private individuals and organizations in performing the bureau's responsibilities.

TRINITY RIVER VALLEY IMPROVEMENTS NEEDED NOW

Mr. YARBOROUGH. Mr. President, the Trinity River Valley improvement program, which includes conversion of the stream into a barge canal from the Texas gulf coast to Fort Worth, has 30 years of visionary planning and hard work behind it.

The interest in this great project can be illustrated by the fact that 1,500 people turned out for a single Army Engineers hearing on the project last fall in Fort Worth.

At a time when our country is searching in every direction for new ways of increasing employment, strengthening the economy, advancement of the Trinity River Valley project is a golden opportunity which cannot be overlooked.

It does not take an economist today to recognize that the vast expansion and modernization of industries in other lands intensifies the urgency for improving our competitive level. Reducing costs of production and transportation must be major goals in meeting competition in both foreign and domestic markets.

Inland water transportation of the type that will be made available on the Trinity River is certainly a resource to be drawn upon fully if American industry is to be able to compete with the industrial complexes in the European Economic Community, Japan and the U.S.S.R.

There is a need to move quickly in developing our inland water resources to meet a responsibility to American economic growth.

I ask unanimous consent to have the following editorial "A Lesson in River Development" from the Sunday, March 18, 1962, edition of the Fort Worth Star Telegram printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A LESSON IN RIVER DEVELOPMENT

Fort Worth and the whole Trinity River Valley could learn a lesson from Oklahoma.

The hope of this area is for complete development of the Trinity River, including its opening to barge navigation from the gulf to Fort Worth. Over the years, progress has been made. But the rate of advance toward realization of the immense economic benefits of water transportation seems agonizingly slow.

In Oklahoma, development of navigation on the Arkansas and Verdigris Rivers from Tulsa to the Mississippi is proceeding at full speed. The plan long since has passed the blueprint stage and in some of its important phases is under construction. Though it is a project of tremendous cost as compared to the Trinity, its progress is not hampered by lack of money. The rate of construction is gaged only by the ability to put men, materials, and equipment on the job.

In its present scope, the Arkansas-Verdigris project was conceived long after the Trinity project. But it is proceeding toward actuality at a far faster pace. This year more than $85 million—money already at hand—will be spent along the river. Funds requested by President Kennedy in his budget for the next fiscal year will speed it still further on its way. The funds will be sufficient to put well underway or bring near to completion the construction of half a dozen huge reservoirs, to put beyond the halfway mark a costly stream bank stabilization program which would not be necessary on the Trinity project, and to begin preconstruction planning of lock and dam projects above Little Rock.

All this, it is to be stressed, has been accomplished in a relatively short time as such projects go. Moreover, the timetable, for completion, originally 1973, already has been shortened by 3 years. Efforts now are being made to advance the completion date by another 3 years. And with the able assistance of U.S. Senator ROBERT S. KERR, who has shown himself a mover of mountains and men in Washington to further the project, who can doubt that it will be done? And already there is talk of enlarging the program to include extension of the navigation channel to Oklahoma City.

The whole program now so far advanced is one which in the beginning was labeled as "impossible." The obstacles, the costs involved, were great, not the least of them being the problem of making the unstable banks of the Arkansas stay put. The apparent secret of success is that the leaders and the people of the area have stayed put behind the project, losing no opportunity to promote and further it at home and in Washington. And in the Capitol they have had a potent and strategically placed ally in Senator KERR, who has been both convinced and convincing in regard to the program.

A main reason for setting forward the timetable for completion of navigation to Tulsa is that, on the basis of economic study, Oklahomans feel they are losing $64 million a year in benefits that would be derived from this development. By the same method of measurement, how much are Fort Worth, Dallas, and the Trinity Valley losing while their own navigation project hangs fire?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. TALMADGE. Mr. President, I wish to call to the attention of the Senate an excellent article published today in the Washington Star. The article was written by the noted columnist, David Lawrence, and it is entitled "Literacy Test Curb Challenged."

Mr. Lawrence points out at some length in the article that the Federal courts and the courts of every State in

the Union have held that the qualification of voters is a matter to be determined by the States themselves, and that that power is granted not only by article I, section 2 of the Constitution of the United States, but also by the 17th amendment. Mr. Lawrence also states:

Where the Federal Government, through the Department of Justice, can step in, of course, is to see to it that the literacy test is fairly applied, irrespective of race or color. This means a lawsuit in any case of alleged discrimination. A particular "literacy" test law may be "unconstitutional on its face," as Justice Douglas says, but the proper place to determine this is in the courts—not in Congress.

No law of Congress, therefore, can constitutionally declare that, because a literacy test might possibly be a form of abuse, it should be prohibited altogether, and that completion of a certain grade of school shall be accepted as a substitute for a test. If, every time an abuse occurs in any right exercised constitutionally by a State, a law then can be passed by Congress fixing its own standard as a preventive measure, then all rights of the States under the Constitution can be taken away overnight.

Mr. President, I commend the distinguished columnist, David Lawrence for his masterful presentation; and I ask unanimous consent that the entire article be printed at this point in the RECORD, as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, May 7, 1962]

LITERACY TEST CURB CHALLENGED

(By David Lawrence)

Attorney General Kennedy wrote in a letter the other day to the New York Herald Tribune that the bill before Congress, which seeks to fix a sixth-grade education as enough to satisfy literacy requirements, isn't an invasion of the right of the States "to set voting standards." He says that the proposed law is aimed at and "limited to the use of discretionary tests, capable of manipulation by registration officials."

This is a surprising statement and one that has added considerable fuel to the fires burning on Capitol Hill as Senator after Senator opposed to the bill points to decisions of the Supreme Court which declare that the Constitution gives to the States alone the power to set voter qualifications.

Mr. Kennedy argues that as proof of literacy a State can determine to fix 8 or 12 years of schooling or 4 years of college and that these would be "objective standards and qualifications which would not be affected in any way by this bill."

What the Attorney General contends really is that the Federal Government has the right to pass judgment on the extent to which literacy tests as such can be applied. He insists that as a substitute for the tests Congress can flatly set a sixth-grade education as a standard and the States would have to give up their literacy tests and accept this as a qualification for voting.

But although the head of the Department of Justice says it is all right for the States to use any particular grade in school as the basis for their requirements on literacy, he doesn't give any inkling as to where in the Constitution he finds any authority for Congress to take away from the States their right to determine in their own way what literacy is or is not.

Senators WILLIS ROBERTSON, of Virginia, SAM ERVIN, of North Carolina, and HERMAN TALMADGE, of Georgia, Democrats, have cited in speeches to the Senate in the last few days decision after decision of the Supreme Court of the United States in which a judgment was expressed directly contrary to that of Attorney General Kennedy.

The Virginia Senator, for instance, called attention to a case decided by the Supreme Court of the United States as recently as June 8, 1959, known as *Lassiter* v. *Northampton County Board of Elections*. It upheld a North Carolina literacy test. Justice Douglas, in speaking for a unanimous court, said:

"The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised.

"The present requirement, applicable to members of all races, is that the prospective voter 'be able to read and write any section of the constitution of North Carolina in the English language.' That seems to us to be one fair way of determining whether a person is literate, not a calculated scheme to lay springes for the citizen. Certainly we cannot condemn it on its face as a device unrelated to the desire of North Carolina to raise the standards for people of all races who cast the ballot."

Justice Douglas quoted with approval the Court's opinion in the case of *Quinn* v. *United States*, which had said:

"No time need be spent on the question of the validity of the literacy test, considered alone, since, as we have seen, its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted."

Where the Federal Government, through the Department of Justice, can step in, of course, is to see to it that the literacy test is fairly applied irrespective of race or color. This means a lawsuit in any case of alleged discrimination. A particular "literacy" test law may be "unconstitutional on its face," as Justice Douglas says, but the proper place to determine this is in the courts—not in Congress.

No law of Congress, therefore, can constitutionally declare that, because a literacy test might possibly be a form of abuse, it should be prohibited altogether and that completion of a certain grade of school shall be accepted as a substitute for a test. If, every time an abuse occurs in any right exercised constitutionally by a State, a law then can be passed by Congress fixing its own standard as a preventive measure, then all rights of the States under the Constitution can be taken away overnight.

Justice Douglas, for instance, in the unanimous Supreme Court opinion in the North Carolina case quoted above says: "Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters."

Will some Attorney General in the future argue that Congress could pass a law setting standards of intelligence? Maybe a Republican or a Democratic majority in Congress would be encouraged to enact a law declaring that the standard of intelligence is satisfied by the would-be voter's expression of preference for a particular party in a given year.

The crux of the issue is not whether discrimination in determining the eligibility of a voter shall be prevented or punished but how the right to vote shall be protected. If it is desirable to fix a standard of literacy and to take the power away from the States, this can be done not by a law by Congress but only by adopting a constitutional amendment that has to be approved by two-thirds of both Houses of Congress and by three-fourths of the legislatures of the States.

Mr. ERVIN. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I am delighted to yield to my distinguished friend, the Senator from North Carolina.

Mr. ERVIN. The proponents of this very peculiar bill say it does not prescribe a qualification for voting, but that it establishes a standard by which voting qualifications in the field of literacy can be measured.

Does not the Constitution itself prescribe the only standard by which Congress is empowered to legislate in this field, namely, the standard provided by the 15th amendment?

Mr. TALMADGE. The able Senator from North Carolina is undoubtedly correct.

Mr. ERVIN. Is there in the only operative part of this bill a single word which makes any reference whatever to the 15th amendment?

Mr. TALMADGE. There is not.

Mr. ERVIN. Has not the Supreme Court of the United States held, in a number of cases, that the only power Congress has to legislate under the 15th amendment is in passing proposed legislation which by its very terms is restricted to a denial or abridgement of the right to vote on account of race, color, or previous condition of servitude?

Mr. TALMADGE. Or because of sex, under the 19th amendment.

Mr. ERVIN. Yes. And has not the Supreme Court of the United States held that any legislation which by its own phraseology is not restricted to a denial or abridgement of the right to vote on account of race, color, or previous condition of servitude does not constitute appropriate legislation within the purview of the 15th amendment, and for that reason is not valid?

Mr. TALMADGE. Yes; and the courts have so held time and time again, as many of us have pointed out on the floor of the Senate.

Mr. ERVIN. And has not the Supreme Court of the United States held, in some cases, that any legislation which is appropriate to enforce either the 14th amendment or the 15th amendment must take effect only upon the violation of such amendments by the States?

Mr. TALMADGE. The Senator from North Carolina is entirely correct.

Mr. ERVIN. Does not this bill violate those rulings and show contempt for those rulings, in that it is to take immediate effect on the whole body of the States, regardless of how well they may have complied with the 14th and the 15th amendments?

Mr. TALMADGE. That is absolutely correct. The bill flies in the teeth of those two separate provisions of the Constitution of the United States as well as of many decisions by both Federal courts and State courts. Attempts to amend the Constitution of the United States by congressional enactment is not one of the two ways prescribed in the Constitution for amending that document, as the Senator from North Carolina knows.

Mr. ERVIN. Yes.

I should like to ask the Senator from Georgia this question: Would not this bill be unconstitutional under the decisions, in that the decisions state that even in the case of violation of the 14th amendment or the 15th amendment, the Federal Government cannot step in and supersede State legislatures and under-

take to perform, itself, the obligation which rests upon the States not to violate the provisions of the amendments to the Constitution?

Mr. TALMADGE. The Senator from North Carolina is entirely correct.

Mr. ERVIN. But under this bill the Congress would step in and establish an affirmative Federal standard, in violation of those decisions, would it not?

Mr. TALMADGE. The Senator from North Carolina is entirely correct.

Mr. ERVIN. Was the Senator from Georgia present, earlier today, when the able and distinguished majority leader [Mr. MANSFIELD] placed in the RECORD a letter, from the Deputy Attorney General, about the cumbersomeness of trying cases under the present laws?

Mr. TALMADGE. I was; and he admitted that the reason he wants this proposed law enacted is that he does not want to have to go to the trouble of trying such lawsuits under the existing laws.

Mr. ERVIN. I should like to ask the Senator from Georgia if under the Civil Rights Act of 1957 and the Civil Rights Act of 1960 a Federal judge does not sit and try a case both in the capacity of judge and jury, in which there is no right of trial by jury.

Mr. TALMADGE. The Senator is correct.

Mr. ERVIN. I will ask the Senator from Georgia if under the Civil Rights Act of 1960 there are only two questions a judge must decide from the testimony: first, whether a man has been denied the right to vote on account of race or color; and, second, whether that was done pursuant to a practice or pattern?

Mr. TALMADGE. The Senator is right.

Mr. ERVIN. Does not the Senator from Georgia agree with me that if a Federal judge took more than 1 or 2 days to try one of those cases, he would be wasting his time?

Mr. TALMADGE. The Senator is correct. Under that act he can appoint a referee to supersede the registrar within a particular county and take charge of the election machinery.

Mr. ERVIN. The Senator from Georgia is eminently correct.

I will ask the Senator from Georgia if, when a Federal judge, sitting without a jury, finds there has been a denial of the right to vote of one man on account of race or color, and that such act was done pusuant to a practice or pattern, then the Federal judge can receive applications from everybody of the same race in the same area who are denied registration by State officials and pass on those applications, or appoint thousands of voting referees to pass on them.

Mr. TALMADGE. The Senator is entirely correct. He, in his discretion, can take over the entire election machinery of any county any time he sees fit.

Mr. ERVIN. I will ask the Senator if any judge of reasonable competence could not determine in a minute whether an applicant is qualified to write.

Mr. TALMADGE. The Senator is correct.

Mr. ERVIN. I will ask the Senator if a judge could not get 300 or 400 applicants together in a school auditorium, write on a blackboard a short section of the constitution of the State, and have the applicants copy the same just as children taking a test in school do, and thus test the capacity of hundreds and hundreds of applicants to write in 1 day.

Mr. TALMADGE. The Senator is correct.

Mr. ERVIN. Is not the talk coming from the Department of Justice about the trying of these cases being cumbersome so much nonsense?

Mr. TALMADGE. The Senator is correct. It reminds me of a poem I learned once:

> O, what a tangled web we weave,
> When first we practice to deceive!

That is the question before the Congress of the United States at the present time. As the Senator knows, I inserted in the RECORD this morning 15 laws, 6 of them criminal and 9 of them civil, enacted to protect the right to vote. There are perhaps more laws on the Federal statute books protecting the right to vote today than there are laws in any other single area of individual rights. If anyone is being illegally denied the right to vote anywhere in the United States, he can enforce that right either civilly or criminally. In addition, he can even get the Attorney General to handle the suit for him as his taxpaid lawyer.

Mr. ERVIN. I will ask the Senator from Georgia if Attorneys General have not been coming to Congress for years and asking for more legislation of this character.

Mr. TALMADGE. Yes, particularly before an election.

Mr. ERVIN. Would not the Senator from Georgia be interested to know what the Department of Justice told me when I made inquiry as to how many attempted criminal prosecutions have been had since January 1, 1950, while different Attorneys General have been coming to Congress and painting horrible pictures in this area and demanding new legislation?

Mr. TALMADGE. I would like to have the Senator tell me. I believe the Senate and the country would like to know.

Mr. ERVIN. I have been supplied material from Mr. Burke Marshall, head of the Civil Rights Division of the Department of Justice, in which he says there have been only three attempts in all these years to prosecute anybody criminally for any violation of the law in this connection.

Mr. TALMADGE. Three cases out of a total of 185 million people in this country. Yet they are trying to repeal the Constitution of the United States in two separate places by legislative enactment in the name of protecting the right to vote.

Mr. ERVIN. Assuming that all these stories which the Justice Department has been telling about matters in some Southern States are true, does not the Senator from Georgia agree with me that those alleged facts would prove, not the necessity of getting more and more laws, but on the contrary that some Attorneys General have not been doing their duty?

Mr. TALMADGE. The Senator is certainly correct, if the horrendous matters of which they have been complaining before committees are correct. Their lawsuits certainly do not bear out their testimony.

Mr. ERVIN. I should like to ask the Senator from Georgia one further question.

I will ask the Senator from Georgia if he does not believe that any Attorney General of reasonable competence can take the Civil Rights Act of 1957 and the Civil Rights Act of 1960 and secure the registration of any qualified voter anywhere in the United States without serious difficulty?

Mr. TALMADGE. I thank my able colleague for his contribution to the debate.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. TALMADGE. I am delighted to yield to my distinguished colleague.

Mr. RUSSELL. I do not think this phase of the record should be closed without pointing out there is no scarcity of lawyers to conduct prosecutions or file civil proceedings. While they assert they need easier and easier laws to enforce, they get more and more lawyers in the Department of Justice. The last figures I had were that they had nearly 1,900 lawyers under the direction of the Attorney General. We all know that the FBI has several thousand members of its personnel, all of whom are either lawyers or accountants, and that the Civil Rights Commission also has a number of lawyers. So it is rather remarkable for anybody with as formidable and as farflung and as expensive a machine as that to deal with the law to have made the record that the Senator from North Carolina indicated.

How many prosecutions did the Senator from North Carolina say there had been? Three?

Mr. ERVIN. Three.

Mr. RUSSELL. Over a period of 12 years. Yet it is asserted that this matter is so pressing that they have to stall the wheels of government and tie the Senate up in order to make new laws—new laws. They said in 1957 if they got that bill passed it would be adequate for the Department of Justice to carry out its duties. They came back in 1960 and said, "No; we want to have referees appointed to register the people, and we need that." That law was enacted in 1960. And without giving either one of those laws a chance to work, without carrying out their duties and responsibilities to see whether they could not make those laws work and enforce them, they now come in here again, in this election year, seeking another law.

We all know as a practical matter that if this law should pass—which, God forbid, the Senate should so disregard our Constitution as to enact it, but should it pass such a monstrous perversion of the Constitution—they would be back here in 1964 with still another bill, and with a more gruesome story as to why they could not enforce the 1957, the 1960, and the 1962 acts.

Mr. TALMADGE. I agree entirely with my distinguished colleague. I think they will be back here every election year as long as they think they can profit politically by such action.

Mr. RUSSELL. What they are interested in is the balance of power in these great States, with these huge cities, where these seething masses of humanity live, and in many instances where they are marched to the polls like cattle by political bosses, where they are attempting to strike down the laws of the States, where they are trying to centralize power in Washington, where they can touch a button which will result in party bosses in large centers of population marching people to the polls. They are not nearly so much interested in conditions in the States where they live as they are in some of the States that are mentioned in the course of the debate.

Mr. TALMADGE. I thank my colleague.

Mr. ERVIN. Madam President, will the Senator yield? I should like to ask a question.

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). Does the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. ERVIN. Some of our friends have been very much concerned about the fact that people are not voting in certain States below the Mason-Dixon line. I wish to ask the Senator from Georgia a question with reference to which I was unable to get an answer the other day.

How does it happen that in the State of Massachusetts—where the Democratic candidate for President resided, and where the Republican candidate for Vice President, resided—25 percent of the people of voting age did not bother to vote for either one of those candidates in the last presidential and vice presidential election?

Mr. TALMADGE. I agree with the Senator that it is strange indeed that people are more concerned about voting in other regions than they are about the lack of voting in their own areas. If Georgia were fortunate enough to have candidates for President and Vice President on the ballot, I believe Georgians would turn out and vote in tremendous numbers because of the honor that had come to our State.

I do not know why it is the people do not vote in greater numbers than they do in some States, but it would be a matter of great interest and concern to the Senators who have the honor to represent those States.

Mr. ERVIN. I should like to ask the Senator from Georgia if he can explain another thing. The Republican candidate for President in the last election was a native son of the Golden Gate State of the West, California, was he not?

Mr. TALMADGE. That is true.

Mr. ERVIN. Can the Senator explain to me how it happened that in the last presidential election 33 percent of the people of voting age of the great State of California, which had a native son running for President on the Republican ticket, did not even bother to go out to vote either for him or against him?

Mr. TALMADGE. I am at a loss to understand why the people of that great State so neglected the exercise of their franchise, but I certainly would not advocate amending the Constitution by legislative enactment to remedy the situation.

Mr. ERVIN. I should like to ask one other question along this line. How could it happen, in the great Empire State of New York in the last election—a State having more electoral votes than any other State in the Union—that 33 percent of the persons of voting age did not vote either for the Democratic candidate or for the Republican candidate for President?

Mr. TALMADGE. I cannot understand why the people of New York were so negligent in the performance of their electoral responsibilities.

Mr. ERVIN. I should like to ask the Senator from Georgia if he agrees with me on the proposition that there were not any sinful southerners in charge of the election machinery in the State of Massachusetts, in the State of New York, or in the State of California during the last presidential election.

Mr. TALMADGE. The Senator is entirely correct. I thank my colleague.

I yield the floor, Madam President.

Mr. RUSSELL. Madam President, I have on other occasions referred to the extreme difficulties which confront those of us who are defending the Constitution of the United States in this debate, as to piercing the curtain of prejudice which the news media of this Nation throw about the South, but I am encouraged when from time to time I see evidence that there is a very acute awareness in other sections of the country of the vital stakes involved in this debate.

It is not merely a question of whether a man is intelligent enough to vote when he finishes the sixth grade. The question is whether we shall follow the Constitution of the United States or whether we shall twist, distort, and breach that document for what some of us feel is political expediency.

There has been brought to my attention a short editorial which sums up the matter as succinctly and as briefly as any statement I have seen. It was not published in a southern paper. It was published in the Washington Observer. The Washington Observer is not printed in Washington, D.C. It is printed in Washington, Pa., which I understand is a fine little city, but not one of the great cities of our Nation.

The Washington Observer published this editorial, which I shall read, since it is very brief:

VOTER QUALIFICATIONS

Three times the Constitution speaks of qualifications for voters. Each time, it reenforces the power of the States to prescribe the regulations for voting. Yet Attorney General Robert F. Kennedy is asking Congress to pass a law that defines as presumptive evidence of a person's qualification for voting, the fact that he has passed the sixth grade.

It may be that this qualification is enough to prove the literacy of a citizen, though a sixth grade student could hardly qualify him to pass on matters of political importance. However, that is beside the point. The important thing is, that the Constitution specifically reserves this right of fixing the voting standards to the States, and the Congress cannot change that without amending the Constitution.

It is possible that the Attorney General is counting on the Supreme Court, which struck down the long-established equal but separate education, and more recently intervened to give Federal and State courts authority to rule on legislative apportionment, to uphold this latest invasion of States rights. If it does, it will be one more step in centralizing power in the Federal Government and weakening the States.

So, Madam President, I adjure my colleagues who are standing with me in this fight, "Let us not be weary in well-doing." I hope that the Senate will reject the effort to prematurely "gag" the debate on Wednesday, to silence those of us who are protesting against ravishing the Constitution of the United States in such a summary manner; because, in my opinion, if we are permitted to carry on this debate for another month or 6 weeks we shall be able, by the power of repetition and the use of the CONGRESSIONAL RECORD, to get across to the people of this Nation exactly what is involved in the proposed measure.

When the time comes that we can bring that about, and the voice of the people of the United States—an informed voice—can be heard in this Chamber, there will be men here who will hang their heads in shame that they have pressed such a measure as has been proposed.

THE IMBALANCE IN MILITARY CONTRACT AWARDS

Mr. KEATING. Madam President, recent Defense Department figures which have been furnished to me at my request show that more than half of the procurement dollars spent by the two big Air Force procurement outfits in California are going to California firms. The Space Systems Division—SSD—which contracts for Air Force satellites, boosters, and ground equipment for space probes concentrated 73 percent of its awards, by dollar value, in California. For the first 8 months of fiscal 1962 that amounted to $405,186,293 out of a total of $555,843,403.

The Ballistic Systems Division—BSD—which contracts for work on ballistic missiles designed to carry weapons from one point on earth to another, spent 48 percent of its funds in California, or $895,724,269 out of $1,874,121,315. That averages out to 54 percent of the contracts by these relatively new and extremely important procurement outfits being awarded within a single State.

By contrast, only 4 percent of the BSD work and only 0.2 percent of the SSD work went to New York prime contractors.

Mr. KUCHEL. Madam President, will the Senator yield?

Mr. KEATING. I yield.

Mr. KUCHEL. Would the Senator permit an interruption, or would he prefer to have me wait until he concludes his comments?

Mr. KEATING. I apprehend that my distinguished friend from California may take some issue with what I propose to say. I think it perhaps would be more orderly, if the Senator has no objection, to wait until all the figures are before him.

Mr. KUCHEL. Very well.

Mr. KEATING. These figures might be convincing even to one who feels as does the Senator from California, and who so ably represents and supports the position of his State.

I respect the Senator's point of view, but I think it would be well to have the discussion in continuity.

An important Army procurement facility, the Los Angeles office of the Corps of Engineers Construction Division, with responsibility for building missile facilities, spent 22 percent of its funds, or $52.7 million in California and none at all in New York.

Madam President, I ask unanimous consent that, at the conclusion of my remarks, there be printed in the RECORD the rather surprising statistics and related statements from the Army, Navy, Air Force, and Defense Supply Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KEATING. Madam President, since the Corps of Engineers Construction Division contracts which I have referred to are for construction at sites throughout the United States, the figures to which I have referred appear to indicate a substantial imbalance.

These statistics are alarming, not only for New York State, but for the Nation. Missile programs, construction and maintenance of bases, and sophisticated space efforts are obviously the wave of the future in defense work. If one State is permitted to get a corner on this business—to the extent of half or more—that will be creating a serious economic and strategic imbalance.

The Defense Department assures me that an effective job is being done in terms of providing information and opportunities to bid and of awarding contracts to companies throughout the country. Except in special cases, all bids over $10,000 are advertised in the Commerce Business Daily. The Air Force maintains the results would be similar wherever the procurement stations were located.

Yet, these figures cause me very grave concern. For either they show that the rest of the country is not made fully aware of the opportunities or they show that the rest of the country is seriously falling down on the job of developing space interests and space work capabilities.

Statistics provided on a sampling basis by the Navy for Naval Purchasing Offices in Brooklyn and in Los Angeles show that when a determined effort is made to publicize upcoming bids widely, many new and qualified firms can be added to official bidder lists. Figures for January–March of 1962, for example, show that 108 New York firms were added to the Los Angeles Naval Purchasing Office list through the wide circulation of synopses; that is, summaries of upcoming procurement. These 108 New York firms were nearly half of the New York firms from which bids were solicited.

From the admittedly small sample provided, it would appear that the response of New York firms to widespread publicizing of bids by a California procurement office was high—a lot higher, for instance, than the response of California firms to similar efforts in New York. If this is characteristic of present Navy procurement trends, it is encouraging and contrasts considerably with the Air Force procurement policies to which I have referred.

Madam President, these facts should wake us up to the need for more diversification and more geographic spread in missile and space efforts. New York, the entire east coast, and in fact the whole Nation, should be playing a larger part in the critical work which is now being channeled, to an unhealthy degree, into one relatively small part of the country, albeit an important part of the country. More effort, through the synopsis program and other media, should be directed to the publicizing of upcoming defense work throughout the entire Nation.

The figures furnished by the Secretary of Defense with regard to the procurement in all branches of the service will be very revealing in fixing attention on this extremely important problem, both economically and strategically.

EXHIBIT 1

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., April 26, 1962.

Hon. KENNETH B. KEATING,
U.S. Senate.

DEAR SENATOR KEATING: This is in response to your letter of March 2, 1962, in which you requested us (1) to investigate to determine whether all procurement offices, and especially those on the west coast, are making a conscientious effort to solicit and review bids from all parts of the country, (2) to provide statistics from the Air Force Ballistic Systems Division, Air Force Space Systems Division, and the U.S. Army Corps of Engineers in Los Angeles, showing the percentage of their contracts awarded locally and in other areas, and (3) to provide any additional information as to measures being taken to publicize upcoming procurements widely.

We have enclosed a report which provides the requested statistics, and describes the activities of each military department and the Defense Supply Agency to publicize and solicit bids for military work on a nationwide basis. Considering the fact that a major portion of the ballistic missile and space industry is located in California, I believe that the statistics indicate that an effective job is being done in terms of providing information and opportunities to bid, and in awarding contracts, to companies in other parts of the country.

Sincerely,

THOMAS D. MORRIS,
Assistant Secretary of Defense, Installations and Logistics.

DEPARTMENT OF DEFENSE—PUBLICITY AND SOLICITATION OF BIDS FOR PROPOSED DEFENSE PROCUREMENTS, AND GEOGRAPHIC DISTRIBUTION OF LOS ANGELES PROCUREMENT OFFICE AWARDS

DEPARTMENT OF THE ARMY

Within the limitations of satisfying the requirements for soliciting small business and labor surplus areas, Army purchasing offices afford maximum opportunity to all firms, nationwide, to compete for its business. Bidders lists are maintained without regard to geographic location and procurements in excess of $2,500 are normally solicited on this basis. All proposed procurements, both advertised and negotiated, to be made in the United States which may result in an award in excess of $10,000, unless falling within an authorized exception, are publicized in the Commerce Business Daily which is distributed nationally by the Department of Commerce. In addition, for certain procurements, notices are furnished to trade journals which also have nationwide distribution.

The percentages requested with respect to awards made by the Corps of Engineers offices in Los Angeles are: approximately 22 percent of the total dollar amount for the past 2 years was awarded to local west coast firms, and 78 percent to contractors from outside that area. It should be noted that while the contracting offices are located in Los Angeles, the work for which contracts are awarded covers many States countrywide. This is especially applicable for the construction of the intercontinental ballistic missile bases. Normally, construction by its very nature, results in awards to contractors located within an economically competitive distance from the project site, since they are in a more favorable position to submit the lowest bid. This is especially true for contracts under $500,000. Therefore the location of a project will exert a significant influence in determining who the successful bidder may be regardless of the amount of publicity given.

Additional measures to publicize forthcoming procurements widely encompass stress on small business and labor surplus area set-asides, soliciting all small business firms on bid lists on which they are not predominant, encouraging prime contractors to synopsize subcontracting opportunities in the Commerce Business Daily and emphasis on breakout of components of major systems and equipments.

DEPARTMENT OF THE AIR FORCE

Statistics on contract awards by the Air Force Ballistic and Space Systems Divisions, and by the Army Corps of Engineers office in Los Angeles, are furnished in attached tabulation. These data represent the first 8 months of fiscal year 1962 prime contract awards over $10,000. As can be noted by the "Comparison—Inside and Outside California," approximately 50 percent of the dollars are awarded outside of the State of California. This trend has been fairly constant since the beginning of the ICBM effort. There has been a total of roughly $6.5 billion awarded on major missile programs of which $3.3 billion has been awarded inside and $3.2 billion awarded outside the State of California. Considering that a major portion of the ballistic missile and space industry is located in California this would appear to be a reasonable ratio of prime contract awards with respect to geographic areas. It also indicates that the preponderance of dollars placed on these contracts correlates to the geographic location of major system contractors and not to the location of the purchasing activity. The Air Force believes the results would be the same if these contracts were issued from either Washington, D.C., or Dayton, Ohio, instead of Los Angeles.

With regard to measures being taken to publicize widely upcoming procurements, the centralized source selection files at the Ballistic and Space Systems Division complex includes the entire United States. Potential contractors who have expressed an interest in receiving requests for proposals (RFP) and who have registered their qualifications with the Air Force Systems Command are automatically placed on a source list for evaluation. Also, the Armed Services Procurement Regulation requires, with specified exceptions, that procurements over $10,000 be synopsized and published in the Commerce Business Daily, to insure coverage and solicitation of all potential sources on a national basis.

Comparison, inside and outside California

	Ballistic Systems Division	Space Systems Division	U.S. Army Corps of Engineers	Total	Percent
Inside Los Angeles area	$37,836,254	$3,209,373		$41,045,627	1.5
Outside Los Angeles area in California	857,888,015	401,976,920	$52,700,000	1,312,564,935	49.1
Outside of California	978,397,046	150,657,110	192,100,000	1,321,154,156	49.4
Total	1,874,121,315	555,843,403	244,800,000	2,674,764,718	100

DEPARTMENT OF THE NAVY

In order to provide information requested on the efforts of Navy purchasing activities, and especially those on the west coast, to solicit and review bids from all parts of the country, two similar Navy purchasing activities located in key geographical areas were chosen for a limited analysis of operations.

The accompanying table is a summary of information pertaining to bid solicitations made by the Navy Purchasing Office, Brooklyn, N.Y., and the Navy Purchasing Office, Los Angeles, Calif., during the period January 1, 1962–March 31, 1962.

Although the organizational structure of the two activities is basically the same, the mission assigned NPO, Los Angeles, is somewhat broader and involves greater procurement of esoteric items required by the U.S. Naval Ordnance Test Station, China Lake, and the U.S. Naval Missile Test Facility, Point Arguello, Calif.

A very favorable response to the synopsis of proposed procurements was experienced from both New York and California companies. The value of synopsis is evidenced in the statistics as shown in the significant increase in solicitation after publicizing, particularly at NPO, Los Angeles, where 33 percent of the companies solicited were as a result of the synopsis.

The statistics are considered indicative of comparable interpretation and implementation by field purchasing activities, regardless of location, of the overall policy of the Navy Department. Planned future actions to increase competition throughout the Naval Establishment are to be directed at additional publicizing of proposed procurements and encouraging more widespread solicitation of bids.

Analysis of bid solicitations, NPO, Brooklyn, and NPO, Los Angeles, for period Jan. 1, 1962 to Mar. 31, 1962 [1]

	NPO, New York	NPO, Los Angeles
(a) Procurement actions	69	175
Procurement dollar value	$3,704,829	$9,869,495
(b) Publicized in synopsis	43	89
(c) Companies solicited	1,036	2,385
(d) Companies added through synopsis	203	799
(e) Number of companies solicited from—		
(1) California	47	1,330
(2) New York	527	252
(3) All other States	462	803
(f) Number of e(1) resulting from synopsis	13	379
(g) Number of e(2) resulting from synopsis	102	108

[1] Procurement actions in excess of $10,000.

DEFENSE SUPPLY AGENCY

Statistics covering the procurement activities of the DSA Centers are currently available only for the first 2 months' operation under DSA command. These data are not sufficiently comprehensive to permit the forming of conclusions regarding the pattern of award distribution being accomplished by the centers. There is no indication that awards are being concentrated on the west coast except in the case of some petroleum purchases made under formal advertising.

Solicitation of bids by the supply centers under the command of the Defense Supply Agency is conducted on a nationwide basis to the fullest extent possible. Constant emphasis is placed upon the necessity for full competition in the procurement of military supplies by the centers. The publicizing of proposed procurements through the Commerce Business Daily and trade papers, the use of preinvitation notices and the expansion of lists of bidders to include as many potential sources of supply as possible are methods used by the centers to accomplish the objectives of widespread solicitation and publicizing of procurements. This Agency makes extensive use of formal advertising. Some 53 percent of our procurements are formally advertised.

Mr. KUCHEL. Madam President, will the Senator yield?

Mr. KEATING. I am happy to yield to the Senator from California.

Mr. KUCHEL. I thank my able friend from New York. First of all, in the comments which my able friend has made, I am sure he was not directly or indirectly accusing the Defense Department of failing to follow the law with respect to defense procurement. Am I correct in that observation?

Mr. KEATING. So far as I know, there have been no breaches of law but there is a wide area of discretion within the law. I have contrasted the practice which has been followed by the Navy and the other branches of the Defense Establishment.

Mr. KUCHEL. The Senator does not accuse the Defense Department of any fraud or collusion in its procurement policies, does he?

Mr. KEATING. I am aware of no such fraud or collusion.

Mr. KUCHEL. The distinguished Senator from New York therefore makes no such assertion in the comments he has uttered in this Chamber.

Mr. KEATING. No, I assure the Senator that I would never assert such a serious charge as fraud or collusion unless I had facts upon which I felt such a charge could properly be based.

Mr. KUCHEL. Is it true that the defense procurement laws and policies of the Government of the United States provide for participation by any person or firm in any of the 50 States of the Union?

Mr. KEATING. Oh, yes. Any firm that is interested could try to qualify for an official bidders' list for defense contracts.

Mr. KUCHEL. Is my friend quarreling with the fact that people in the State from which I come have received defense procurement contracts?

Mr. KEATING. The warning which I sound is that more than half of our contracts relating to Air Force satellites, boosters and ground equipment for space probes and our work on ballistic missiles designed to carry weapons from one point on earth to another are concentrated in only 1 out of the 50 States in the Union. But I am very careful to point out that it seems to me those figures show either one of two things or perhaps both—I am not sure which—either that the rest of the country has not been made wholly aware of the opportunities which exist in that area, or that they are falling down on the job of developing the space interests and the capabilities for space work. To some extent that is the problem of the business firms themselves—to develop their capabilities and their know-how in Government procurement procedures. I think that it would be very helpful if the Air Force would undertake efforts similar to Navy ones to advise firms throughout the country capable of performing work of that character when contracts are about to be let.

I commend the Navy for what they have been doing in this area, which has had considerable effect, I say very frankly to my friend from California. He very naturally is interested in improving the economy of his own State and maintaining what is now there. Knowing him as I do, and knowing his dedication to the interest of his State, I would expect him to oppose anything which would have the result of injuring the economy of his State or lessening its present prosperity. I do say, however, that if something like the Navy program is adopted by the Air Force, and firms in New York or Ohio and other States are given more of an opportunity to be informed of what is going on in the way of procurement, and then are not able to compete on a basis with California firms or any other firms, there is nothing the Senator from New York can complain about. What I am trying to do is improve the ability of all firms throughout the country to know what is going on.

Mr. KUCHEL. Do I understand the Senator to say that he is not advocating any change in the procurement laws of the country?

Mr. KEATING. No; I do advocate some change in the laws. I have introduced a bill for that purpose. That is not the subject to which I am addressing myself now. Bills to bring about a change are now before the Armed Services Committee and have been the subject of some hearings. For one thing I believe there could be more competitive bidding than there is now. I would favor a greater amount of competitive bidding in the Defense Establishment than is now the case. However, I concede very frankly that we cannot have competitive bidding on a new ballistic missile to the extent that it is possible to have it on wrenches and screws, and items of that kind.

Mr. KUCHEL. Does my friend contend that, by reason of the lack of competitive bidding, any of the contracts to which he alludes in his speech have been awarded?

Mr. KEATING. No; the contracts to which I am addressing myself today for the most part, I would say, would not lend themselves to competitive bidding. They would lend themselves to competitive negotiation. I believe there have

been times when there has not been enough competitive negotiation. A prime contract for a new development in the space missile field necessarily would be let by negotiated bidding. However, when such negotiation takes place it should not be, in my judgment, with one or even two firms, but it should be with whatever qualified firms in the Nation can do the job in question.

Mr. KUCHEL. The Senator from New York, in his prepared text, speaks about an important Army facility, the Los Angeles office of the Corps of Army Engineers Construction Division, and its building missile facilities with respect to the awarding of contracts for the construction of missile facilities. Do I understand the Senator to say that this is the result of negotiated bidding?

Mr. KEATING. No; I was speaking previously of the development of new weapons. I believe that most of the building of missile facilities would be by competitive bidding.

Mr. KUCHEL. The Senator is precisely right. I wish to say for the record that, with respect to the action of the Corps of Engineers Construction Division in the awarding of contracts for the building of missile facilities, competitive bidding is the precise and sole method upon which bids are offered and awards are made.

With respect to the comments which the Senator from New York makes on the development of new weapons, he, of course, agrees with me that in those instances he would rather have the Pentagon determine whether there shall be any negotiation. Is that not correct?

Mr. KEATING. Before we get to an answer to that question, the Senator from California may be right, but in all of those cases of the building of missile facilities, where 22 percent of the funds were spent in California and none at all in the State of New York, there was competitive bidding. I point out, however, that one of the reasons for the many construction contracts in California is the heavy concentration of missile and space facilities there. In other words, a California contractor can necessarily compete considerably better than a New York or Ohio or Rhode Island contractor for the building of missile facilities when those facilities are located in California.

Mr. KUCHEL. The Senator from New York is not quarreling with that, is he? He does not object to it; does he?

Mr. KEATING. I object to it in this way, that it carries us back to the original thesis, namely, the concentration of actual weapons development and weapons construction in one area. I do not quarrel with the letting of the contract to the lowest qualified bidder, if that is what the Senator means. That is the duty of the Corps of Engineers to do. I was seeking to clarify the first comment of the Senator before he asked me the question to which I have not responded. If he would repeat it I will try to answer it.

Mr. KUCHEL. With respect to the comments of the Senator from New York in his prepared text on the development of new weapons or weapons systems, is it not true that the Department of Defense has a discretionary responsibility as to whether there should be competitive bidding, and that that is where the responsibility should lie?

Mr. KEATING. Oh, yes; I think it should, although it might be desirable for Congress to lay down even stricter guidelines than it has to this time in that regard. However, there must be vested, in the final analysis, in the Defense Department some discretion to determine the method of procurement.

Especially in the field of complicated and sophisticated weapons systems, it is important that the procurement not be treated in the same way as perhaps rifle procurement might be treated.

Mr. KUCHEL. It cannot be.

Mr. KEATING. No; in most cases it cannot.

Mr. KUCHEL. How would the Senator from New York propose to change the present law with respect to the procurement of military hardware and weapons systems?

Mr. KEATING. Let me say again that my remarks today are not directed to the proposed legislation introduced by my colleague from New York [Mr. JAVITS] and myself, by the distinguished Senator from Delaware [Mr. WILLIAMS], and by other Senators, with reference to changing the method of procurement by legislation. My remarks have nothing to do with that proposal. However, to respond to the Senator from California, the legislation in which I am interested would have very little relationship to cases in which the procurement is by negotiated bid. It would have more relationship to items which could be handled by competitive bidding. However, I am not ready at this point—because I am not sufficiently informed—to concede that there are no instances in the field of space or ballistic weapons procurement where competitive bidding would not be in order. The purpose of the proposed legislation is to spur the Department of Defense to a greater amount of competitive bidding than that in which it is now engaged. Very frankly, I expect that it would have a relatively minor relationship to the field about which I am talking.

Mr. KUCHEL. The Senator from New York said in his prepared text:

> If one State is permitted to get a corner on this business to the extent of half or more, that will be creating a serious economic and strategic imbalance.

Not one State, today, has one-half or more of the defense procurement business of the United States. However, bypassing that fact for the moment, how would the Senator seek to prevent the creation of what he terms "a serious economic and strategic imbalance"?

Mr. KEATING. Let me clarify the statement of the Senator from California. I said that no State has half or more of this business. I believe the figures show that, overall, in all defense procurement, California has approximately one-quarter rather than one-half. But in the two fields to which I have been referring, prime contracts—and I stress prime contracts—if the SSD and the BSD procurement is averaged, the average is 54 percent.

One way in which I would seek to improve the situation, and a cheap way, would be along the lines of the method which has been followed by Navy Procurement, by making a studied effort to publicize bids more widely.

My sample figures for the Navy deal with two important naval purchasing offices, one in Brooklyn, N.Y., and the other in Los Angeles, Calif. I do not advocate that besides having one office for ballistic systems and one for space systems, both of which are in Los Angeles, another office be opened in New York. Of course, I am sure, we in New York would welcome that action. Nevertheless, the Air Force should endeavor to do what both the Los Angeles and New York Office of the Navy Procurement are doing: Provide wide circulation of the procurement that is contemplated.

The Senator from California and I are talking about California and New York; but my proposal is one which I think would be healthy for the Nation. New York has an economic problem, just as California has such a problem. But also there is the strategic problem of not concentrating all, or too large an amount, of the procurement in any one area of the country. That, again, is a question of discretion. Beyond that, I think legislation would be helpful, but I really place that in a secondary category.

I was very careful to refer to this proposal as affecting prime contracts, and perhaps this is the point to which the Senator from California was addressing his remarks. I recognize that a considerable amount of the work awarded to a prime contractor is in turn done by subcontractors. I know of no figures which are available to show that the result of such subcontracting is geographical. I simply say in a general way that subcontractors tend to develop around a prime contractor, and that it is the easier, simpler, and more common practice for a prime contractor to subcontract to subcontractors who are located near him. However, I concede that there are subcontracts today, and valuable ones, in the State of New York which have been obtained from California prime contractors.

Mr. KUCHEL. On the latter point, during 1960 and 1961, California defense contractors placed orders for $2,700 million worth of articles, materials, and services in other States. Such lower level procurement benefited 48 of the 49 other States. Particularly, New York received most of those standing subcontracts, in the amount of $330 million.

Mr. KEATING. How much did the California subcontractors receive?

Mr. KUCHEL. I cannot tell that, except, as the Senator has stated—and it is the fact—that the contracts which have been awarded to California amount to somewhat less than 24 percent generally, as I recall. My only point is that from that amount, during 1 year, that much money, $2,700 million, has been contracted out to 48 of the other States of the Union.

Mr. KEATING. I would comment on the Senator's statement as follows: I

know that a large part of the work is subcontracted. That indicates that a great capability exists outside California and that much more effort should be made by the Air Force to contract directly with some of the firms outside California, instead of awarding the prime contracts to contractors there, and then having the subcontracts let by them to subcontractors in other areas.

It is significant that the Subcommittee on Investigations of the Committee on Government Operations, headed by the distinguished senior Senator from Arkansas [Mr. McCLELLAN], has recently held hearings in which there have been allegations, at least, that often there are excessive profits because of too much subcontracting by big firms which take their cut at every stage of the subcontracting. In other words, there might be an advantage to the taxpayers, to the overall economy, and even to our overall strategic position, if more direct prime contracts were awarded to some of the firms which have shown their capabilities. I must say that the Air Force was mentioned specifically in this controversy before the McClellan committee and its representatives were called upon to testify and explain their procurement procedures.

I am very happy that this subcommittee has taken up this subject. At the hearings it was indicated that one of the alleged principal offenders was a concern from the State of the distinguished Senator. I make no charges, because I have not been taking part in the hearings, and I am not a member of that committee. But I do think the hearings have brought out the desirability of more direct prime contracting; and the remarks of the Senator from California about the large amount which has been subcontracted to other firms throughout the country bear out and prove that there is a big capability in prime contracting which is now unused.

Mr. KUCHEL. If I correctly follow the argument of the Senator from New York, he would prefer to see eliminated the type of subcontracting allocations to which I have referred.

Mr. KEATING. Oh, no; I do not think subcontracting can be eliminated.

My point is that I think the Defense Department can be encouraged, in many instances, and at a saving to the taxpayers, to include in its list of prime contractors some of the firms which have been called upon by California contractors to do work for them. It is true that this does not apply only to California. When a firm has a prime contract and lets a subcontract to another firm, it is natural for the subordinate firm to be entitled to include in its figures a profit. But then the prime contractor decides that that is something on which he should have an additional profit or additional compensation, for his overhead involved in dealing with the subcontractor. In short, there is a strong indication that where there is excessive subcontracting, it increases the total cost to the Federal Government.

Mr. KUCHEL. The Senator from New York has spoken of the Army procurement in the building of missile facilities; and the Senator went on to say that 22 percent of the funds used for these purposes are spent in California, and none at all are spent in New York.

I wish to say to the Senator from New York that I believe it is clear that these cases involve competitive bidding, where the lowest responsible competitive bidder is awarded the contract.

Taking that part of the Senator's charge—the part with respect to the construction of missile facilities in this country—let me ask how the Senator from New York would go about changing from the present situation, in which, as I have said, the lowest responsible competitive bidder—no matter where he may live—obtains the award.

Mr. KEATING. The way it would be changed would be if the basic construction of the Air Force satellites and everything connected with space problems——

Mr. KUCHEL. No, Madam President; this is just for the missile facilities, I say to the Senator from New York.

Mr. KEATING. All right. If the missile sites were more widely dispersed, that would result in the construction work on the sites being more widely dispersed presumably. If, let us say, they were bidding on such construction in the State of New York, I would expect that a New York contractor would have some advantage over a California contractor in that bidding. Obviously there are, or there must have been, missile facilities in the State of California being built by the Corps of Engineers, which did not go to a California construction firm. According to these figures, I would say that is rather apparent.

But it is extremely difficult for a New York or a Maine or a Delaware contractor to bid on an equal basis for the construction of facilities in California or in Oregon. That part of the complaint, to which I have directed my remarks, would be partially taken care of by a wider dispersal of the construction of the bases and weapons themselves.

I wish to repeat that there is no contention on my part that if, for reasons other than geographic, New York contracting firms—or Ohio contracting firms or contracting firms located in any other State—cannot compete successfully with California contracting firms, the New York firms should get the jobs. If California contracting firms are able to bid lower, because of greater efficiency, or because of being willing to take less profit, or because of some other reason of that kind, that is nothing that anyone else can properly complain about, in my judgment.

But obviously California firms have fewer expenses to absorb if they are going to construct a missile site 10 miles from the location of their home office, as compared with the costs of a firm whose home office is 2,000 or 3,000 miles away.

Mr. KUCHEL. Missile facilities are constructed at the places where the Defense Department believes the security of the Nation requires them to be constructed. Is not that a fact?

Mr. KEATING. I hope that is the principal consideration.

Mr. KUCHEL. I do not think there should be any question about that, I say to the Senator from New York. The construction of missiles, the construction of the complex of the new type of defensive armament we have, is located, is it not, where the men charged with the defense and the security of our country determine it will be in the best interest of the security of this country to locate those facilities? There can be no question about that, I am sure.

Mr. KEATING. Well, insofar as the best interests of the country are concerned, I have the impression that one of the factors which enters into the decision is how close the area is to the site of the ballistic weapons production facilities. I think that factor enters into the decision.

Mr. KUCHEL. I wish to disabuse the mind of the able Senator from New York on this point. Madam President, this is an important subject, and surely every Member of the U.S. Senate and every Member of the House of Representatives has a responsibility to inquire into the procurement policies. But I wish to say to the Senator from New York that no matter who sits in the White House, the Defense Department makes its decision as to where to locate missile complexes, on the sole, single basis of what is in the best interests of the security of the American people. I do not think there can be any quarrel on that point; and I ask the Senator from New York to think about that for a moment, because I believe that in this debate we must demonstrate that we have faith that those who are charged with the responsibility of maintaining the security of our country will make their decisions regarding the location of missile sites on one basis alone, namely, what is in the best interest of American security. I am hopeful that the Senator from New York will agree with me on that, without reservation.

Mr. KEATING. I do not disagree with the Senator from California on that point, and I have no reason to say that any single location has been arrived at on any other basis.

I do say I believe that one of the factors which is considered in reaching a conlusion, where one of two bases is equally safe from a security point of view, is which one is closer to the area where these weapons are being made. I say there is nothing improper about that, and that is not charging that they are directly interfering with the best interests of our security, although indirectly there are other implications to be considered.

Mr. KUCHEL. I would like to make the point to the Senator from New York that located in New York City is a private concern to which, so the Corps of Engineers tell me, has been awarded the contracts for the construction of missile bases not alone in the State of New York, but also in the State of Idaho and the State of New Mexico. I feel sure that the only reason why that contract was awarded by the Corps of Engineers in that instance was that the firm headquartered in the State from which my able friend comes was the low-

est responsible bidder. I say that in my judgment the basis on which the Army, through its Corps of Engineers, has operated, is not only the only basis, but the basis of fairness and of equity to the people of the United States in making awards on the basis of who is the lowest responsible bidder.

Mr. KEATING. I always want to stand corrected. Is the contract to which the Senator from California has referred something which has been awarded since the letter to me of April 26? Is that his understanding?

Mr. KUCHEL. I do not know. All I know is that the Chief of Military Construction states that there is in the Senator's State a successful bidder on the installation of bases not alone in New York State, but also in the other States to which I have alluded.

Mr. KEATING. If my statement that none of the contracts issued in the first 8 months of fiscal 1962 by the Corps of Engineers, Military Construction Division, charged with the responsibility for building the missile facilities, had been awarded in New York is in error, I certainly want it corrected. My figures, however, cover only that 8-month period. There is nothing in those figures which bears out the statement of the Senator from California, but he apparently has been in touch with the Corps of Engineers. If the contract to which he has referred was awarded to a New York firm in that period, all I can say is that I am delighted it is so.

Mr. KUCHEL. I am going to read two sentences from a speech I made a couple of weeks ago:

> The selection of a contractor, be it for a simple electronic device or a complex weapon system, should be determined solely by consideration of what is in the best interest of the Nation as a whole. The producer should be the one who does the job most efficiently, most economically, and most speedily.

Does the Senator from New York agree with that statement?

Mr. KEATING. I was looking at some figures I have. Opposite the State of New York there is a blank on the question of awarding of contracts by the Corps of Engineers Procurement Division for missile facilities.

I apologize to the Senator. I was looking at these figures, and I did not hear what he said.

Mr. KUCHEL. I feel sure our two staffs can verify the accuracy of the statement I made, but I wish to ask the Senator from New York a question. I made a speech a few weeks ago. I would like to have the Senator comment on this statement:

> The selection of a contractor, be it for a simple electronic device or a complex weapon system, should be determined solely by consideration of what is in the best interest of the Nation as a whole. The producer should be the one who does the job most efficiently, most economically, and most speedily.

Does the Senator agree with that philosophy?

Mr. KEATING. Madam President, like so many—in fact most—of the utterances of my distinguished and able friend from California, I think he has summed up admirably the policies which should be followed in procurement, and I commend him for the statement to which he has just referred.

Mr. KUCHEL. I thank my able friend.

Mr. KEATING. I yield the floor.

Mr. KUCHEL. Madam President, I do not have a better friend in the U.S. Senate than the junior Senator from New York. I am rather proud of the friendships I have made in this Chamber, and I must say he has been one of the best friends I have made. Certainly, I also want to pay tribute to the people of New York who have my friend KEN KEATING and my friend JAKE JAVITS representing them in this Chamber. They represent the people of New York and the public interest of the people of New York adequately, admirably, and fully.

Having made that comment, I want to say it will be a sad thing for the security of the people of the United States if the present basis in law upon which defense contracts are made is ever changed, and thus I am delighted that my friend from New York and I can agree basically on a sound principle. That principle is that there should be only one basis upon which the responsible officers of the Government of the United States should offer a contract in the field of defense. That single basis is the consideration of what is in the best interest of the American people as a whole.

From time to time my colleagues from various parts of the country have come forward to denounce California. My colleagues have come forward to denounce the people of California, because they have been able successfully to underbid other areas of the country and to give to the Department of Defense that which the Department of Defense believes is necessary in the interest of the security of the American people.

I have no right to ask any special favor of any kind or character for California, and I have a duty to demand that no other part of this country be given special treatment, either. All I have a right to ask is that the law be applied across the board. All I have a right to ask, as a Californian and as an American standing on the Senate floor, is that fair and equal treatment be given to everyone in America, any place in this country, who wants to respond to a prospectus by the Department of Defense for military hardware or for the development of a new system which the Defense Department and the Chief Executive believe may assist the free world in deterring Communist aggression or, if unhappily necessary, in combating it.

Therefore, speaking for myself and completely on my own responsibility, I repudiate without equivocation any charge or any inference that the Defense Department is derelict in its duty in awarding contracts, or that the Defense Department is guilty of favoritism any place in this country.

I congratulate my friend from New York for refusing to point the finger at the Defense Department or to contend that it is guilty of favoritism; for he did not do that. Madam President, I think the good people of the State of New York ought to demonstrate a little bit more of the commendable zeal that their Senator on this floor demonstrates. They ought to become a little more interested in sharing in defense procurement industries in America and in trying to present to the Government of the United States the type of bids on defense procurement which they believe they can present. Believing they can, they should try to do it as economically as some of those who live in my State apparently over the years have been able themselves to do.

I come from a State which is blessed in many respects, but so does my friend from New York. It so happens that the Government of the United States has seen fit over many years to take advantage of the climate; of the wide and unique open expanses of area available for testing; and of the type of training which, over the years, has accumulated in my State a potential industrial complex of skilled employees and craftsmen as well as able business executives, many of whom come from local technical schools—and I mention the California Institute of Technology as only one. There has been for a long period of time an opportunity which has come to people in California to interest themselves in responding to the wants of America's defense and to do it under a law which uses as its basis the award of a contract to whoever offers the best job at the cheapest price. That is the American system.

I cannot quarrel with any person in this country who is successful, no matter where he lives. Neither can anyone else. I say it is a good thing to have these airings from time to time.

I close by repeating what I said a moment ago. I wish the good citizens of New York State would take a little bit of the zeal and the energy demonstrated by their U.S. Senator on this occasion. If they are interested in doing a job for Uncle Sam, I think they would get further by applying that zeal and energy to the type of bids they send in to the Pentagon.

Mr. KEATING. Madam President, will the Senator yield to me?

Mr. KUCHEL. I yield.

Mr. KEATING. First I wish to express to my distinguished colleague my gratitude for the very kind things he has had to say about me. I wish to make it extremely clear that by no means did I today, or at any other time, mean to denounce the State of California or to denounce the people of California, in which wonderful State I have hundreds—and I hope thousands—of friends. Least of all, I do not wish to denounce the Senator from California, who so ably protects their interests.

This should not be a controversy between States. I speak for 49 of the States of this Union, other than the great State of California, in urging a greater dispersion of defense procurement, in part on a strategic basis.

The remarks to which I addressed myself today, and in which I commended the Navy method of procurement, were designed to give more firms the opportunity to bid on such work.

I think the Senator may be correct as to some of the establishments in the

State of New York. We have fine educational institutions there. We have skilled workmen and scientists. We have industrial know-how. We have at some times of the year a beautiful climate, which varies much in New York State from one end to the other.

I could go on to discuss the glories of New York as long as the Senator has done about California—and we are well aware of his feelings about California, because we hear not only on the Senate floor but also in the cloakrooms and at any other time we encounter the Senator the glories of California, which are always on his lips.

I am sure that in many instances some of the firms in New York which could have taken advantage of this field earlier did not do so. I say that frankly to my friend from California.

While I do not wish to have any of my zeal or strength taken away from me, I say to my friend that I shall, as I have, state to these concerns, "This is not only a matter of a Defense Department decision. It is up to you to show that you have the capability needed, and to show your interest in the problem."

I am sure there is an awakening of interest in some of these fine firms in New York which are responsible for so many jobs. After all, jobs are what both the Senator from California and the Senator from New York are, to a great extent, interested in.

I am very grateful to the Senator for his gracious comments.

Mr. KUCHEL. I thank the Senator.

Madam President, with respect to the gracious comments of the Senator from New York, perhaps it is too bad that some firms in the State which he so very admirably and eloquently represents did not respond to, or take advantage of, the opportunity to bid on defense contracts. The Chief of Military Construction in the Corps of Engineers made the statement today, to my office, that contracts such as missile site contracts are "widely advertised." That statement is unquestionably true. I do not believe anyone has thus far pointed a finger at any segment of the Defense Department and accused it of failing to disseminate adequately the information upon the basis of which it was inviting bids respecting any prospectus for the purchase of hardware or systems.

Perhaps a regrettable aspect with reference to participation in Government business is that some firms do not respond adequately to the prospectus which the particular segment of the Defense Department offers. At any rate, Madam President, I was very glad to engage in the colloquy.

During the delivery of Mr. KUCHEL's remarks:

Mr. MORSE. Madam President, will the Senator yield?

Mr. KUCHEL. Madam President, I ask unanimous consent that I may yield to the distinguished Senator from Oregon with the understanding that I shall not lose my right to the floor and also that the comments of my able friend will be printed in the RECORD at the conclusion of the remarks I intend to complete shortly.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? The Chair hears none, and it is so ordered.

"THE TIGER IN THE SENATE"—PERSONAL STATEMENT BY SENATOR MORSE

Mr. MORSE. Madam President, I have sent to the Press Galleries the following press release:

Senator WAYNE MORSE issued the following comment about advance copies of a book about him entitled "The Tiger in the Senate," being circulated among his Senate colleagues by the publisher:

"This character assassination book is full of untruths, half-truths, out-of-context distortions, and oft-repeated Republican misrepresentations.

"Its author is the Washington correspondent of several anti-Morse newspapers in Oregon. The fact that the book's publishers did not submit the manuscript to me in advance of publication so that I could have pointed out to them its misstatements and slanted journalism is indicative of the political purposes of the book.

"I realize that I am fair game for my political enemies in the forthcoming campaign and this book is their first attack. There will be others. Nevertheless, my faith in the judgment of the people of Oregon convinces me that they will recognize the unfairness and political motivations of the book."

I thank the Senator from California very much for his courtesy in yielding to me.

Mr. KEATING. Madam President, will the Senator yield to me for a comment on the statement of the Senator from Oregon?

Mr. KUCHEL. I yield.

Mr. KEATING. I am very happy that the distinguished Senator from Oregon has clarified the atmosphere with regard to the book. Like many other Senators, I received a copy of the book and immediately assumed that it was a campaign document put out by someone on behalf of the Senator from Oregon. I have not read the book.

Mr. MORSE. I was about to say that it is obvious that the Senator has not read the book.

Mr. KEATING. No, I was planning to do so. In fact, I was in the process of writing the publisher to say that because of my high regard for the Senator I should read the book at my earliest opportunity.

Mr. MORSE. The Senator is very kind.

Mr. KEATING. If the letter has gone out, I apologize to the Senator. I assumed that it was something that the Senator had approved.

Mr. HUMPHREY. Madam President, will the Senator yield?

Mr. KUCHEL. I yield.

Mr. HUMPHREY. The Senator from New York would agree, would he not, that the title, which reveals the qualities of courage, tenacity, perseverance, and strength that are characteristic of a tiger, would also apply to the distinguished Senator from Oregon?

Mr. KEATING. It was the title that made me think the book was a campaign document.

Mr. HUMPHREY. Madam President, will the Senator yield further?

Mr. KUCHEL. I yield.

Mr. HUMPHREY. There are times when the distinguished Senator from Oregon is ready to "mix it up" in the Senate, but none of us would care to meet him head on. I think the title of the book is appropriate, but what the text or the context of the book is I am uncertain. However, if there is any man who has the strength, the vitality, the courage, and the astuteness of the tiger, it is the senior Senator from Oregon.

Mr. MORSE. May I say good naturedly that it was not my purpose to have Senators make the book a bestseller.

Mr. KUCHEL. Madam President, I understand that the series of comments that has taken place will follow my remarks.

The PRESIDING OFFICER. That understanding was included in the unanimous-consent agreement.

BILLIE SOL ESTES AND THE DEPARTMENT OF AGRICULTURE

Mr. WILLIAMS of Delaware. Madam President, early today the Secretary of Agriculture, Mr. Freeman, held a press conference at which time he said:

Three Agriculture Department employees may have received favors from Texas Financier Billie Sol Estes but declared there is no evidence that Estes ever was shown any favoritism by the Department.

"I find no grounds for any accusations that Estes was shown any favoritism," Freeman told a news conference called to discuss Department dealings with Estes. The latter is under State and Federal indictment for fraud in west Texas.

At a 76-minute news conference, Freeman said that of the three persons who might have received gratuities from Estes, one has been fired, one has resigned, and one who testified under oath that he took nothing is still being investigated by the FBI.

Madam President, it is hard to understand why a man should be fired if he has not done anything wrong; why another man if he has not done anything wrong suddenly resigned; and why the authorities should continue to investigate a third man if there were no evidence of wrongdoing. It seems to me that the Secretary's decision on this investigation has already been announced. However, I cannot reconcile his decision very readily with a letter which the attorney general of Texas wrote to Mr. Freeman under date of Friday, May 4, a copy of which I happen to have and which I would like to read. The letter is signed by Mr. Will Wilson, the attorney general of the State of Texas. It reads as follows:

AUSTIN, TEX., *May 4, 1962.*

Hon. ORVILLE FREEMAN,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: I was surprised to learn of your television statement that the Department of Agriculture had not received any evidence or information indicating favoritism shown of Mr. Billie Sol Estes, of Texas.

As you know, we have offered our full cooperation and access to all of the records and evidence we have gathered in the Estes case to the Department of Agriculture, and to all

other Federal agencies or congressional committees interested.

On the basis of the evidence we have been able to develop so far, there are two principal areas of favored treatment of Mr. Estes by the USDA that are involved:

1. The USDA relied in 1961 upon an inconclusive audit not based upon sound auditing procedures and not reflecting the true net worth of Mr. Estes in allowing Estes to continue to operate under a reduced bond, in spite of a greatly increased storage capacity and the expressed concern of the bonding company. At the time the bond was renewed February 23, 1961, the Estes grain storage capacity covered was 26,642,000 bushels. When the bond in the same amount, $700,000, was renewed February 24, 1962, the Estes storage capacity had increased to 50,949,000 bushels. Testimony in the courts of inquiry by agents of the bonding company show that Mr. Estes could not have obtained a bond—and thus could not have continued to expand or operate—without a complete and accurate audit, except for the USDA action in rescinding a proposed increase in the bond required of Estes. To date, the USDA has not revealed upon what basis it recommended the $700,000 bond be renewed on February 24, 1962. For your further study, I am enclosing a chart showing a comparison of the bond requirements and the increases in storage capacity of these Estes operations based upon USDA reports.

2. Estes was appointed to the National Cotton Advisory Committee on November 17, 1961, despite an official report filed previously on October 27, 1961, by the ASC investigating division, upon which the USDA later held the 1961 Estes cotton allotment transfers of 3,123.1 acres were illegal. The USDA also was aware that Estes had been fined $42,000 2 months earlier for a serious infraction of the acreage control regulations. Also, it is our understanding that a staff assistant to Mr. Emory Jacobs, since resigned, identified as a Mr. N. Battle Hales, recommended prior to Estes' appointment that the Estes case be turned over to the Department of Justice as a possible criminal violation, but was overruled by USDA superiors.

You will recall, of course, that you acknowledged receipt on April 24 of a summary of the testimony of Dr. Ralph sent to you by my office, and turned over by you to the FBI, as well as several letters of correspondence between Mr. William E. Morris of your Department and Mr. Estes, sent to you by my office on April 30 and acknowledged by you May 2.

In addition, we have agreed to furnish the general counsel of the USDA office in Dallas with copies of the transcripts of all of the Texas courts of inquiry, and have invited him or any other official from your Department to examine or make copies of all of the records and evidence in the Estes case in our possession. He has not yet indicated a desire to come to Austin and examine these records, however.

There is also in our possession additional evidence of the close relationship between Mr. Estes and certain members of the Department of Agriculture obtained under visitorial letter, which, under law, I am not permitted to divulge except in a court proceeding. This information, of course, could be obtained by your own investigators or a congressional committee.

As I stated to you in my previous letter, it is our desire to cooperate fully with your Department and support your position by uncovering all of the evidence in the Estes case so that remedial action may be taken by your office. We will be happy to give whatever assistance possible to any of your investigators, or those of Congress, the FBI, or any other Federal agency concerned.

Sincerely,

WILL WILSON,
Attorney General of Texas.

I quote one significant paragraph from this letter:

We have agreed to furnish the general counsel of the USDA office in Dallas with copies of the transcripts of all the Texas courts of inquiry, and have invited him or any other official from your Department to examine or make copies of all the records and evidence in the Estes case in our possession. He has not as yet indicated a desire to come to Austin and examine these records, however.

Madam President, I ask unanimous consent that the enclosure which accompanied the letter I have just read be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Bond	Amount	Elevator	Total capacity	Letter
1. Feb. 24, 1959	$200,000	Plainview 2,960,000 bushels; (May 11, 1959) Plainview increase to 6,380,000 bushels.		Aug. 1, 1960, Foster to Andrews Co. (USDA request bond increase of $1,000,000) Lubbock transcript, exhibit S-4.
		(July 24, 1959) Plainview increase to 8,654,000 bushels.		
		(Sept. 16, 1959) Plainview increase to 10,630,000 bushels.		
		(Dec. 1, 1959) Plainview increase to 12,000,000 bushels.	12,000,000	
		(Feb. 19, 1960) Kress Elevator, licensed for 2,744,000 bushels and South Plains licensed for 915,000 bushels.	15,659,000	
2. Feb. 24, 1960 (bond No. 18, S 36,520)	$200,000	(May 6, 1960) Silverton licensed for 2,190,000 bushels.	17,649,000	Aug. 10, 1960, Andrews Co. to Foster (asking for new financial statement) Lubbock transcript, exhibit S-5.
3. Oct. 17, 1960	Increase to $380,000	(Oct. 17, 1960) Plainview increase to 13,006,000 bushels.	16,632,000	Nov. 14, 1960, Foster to Andrews Co. (enclosed executed extension of bond to $981,000) Lubbock transcript, exhibit S-6.
				Dec. 12, 1960, United Elevators to Estes (discussion of bond with Carl Miller) Lubbock transcript, exhibit S-1.
4. Nov. 1, 1960	Increase to $578,000	(Nov. 1, 1960) Kress increase to 5,021,000 bushels.	21,609,000	Dec. 15, 1960, Andrews Co. to Aetna (USDA had seen fit to waive extension of $281,000 and to accept new storage under $700,000 bond). Lubbock transcript, exhibit S-7.
5. Dec. 13, 1960	Increase to $700,000	(Dec. 13, 1960) Plainview increase to 17,033,000 bushels.	25,642,000	Dec. 29, 1960, Aetna to Andrews Co. (Aetna demanded CPA audit before renewal of $700,000 bond). Lubbock transcript, exhibit S-8.
6. Feb. 24, 1961 (bond No. 18, S 37,960)	Renewed at $700,000	(May 26, 1961) Silverton increase to 3,673,000 bushels.	26,642,000	Feb. 10, 1961, Harron to Cooper (Washington instructed him to renew bond at $700,000) Lubbock transcript, exhibit S-9.
		(Aug. 5, 1961) Kress increase to 5,521,000 bushels.	27,142,000	
		(Feb. 14, 1962) Plainview increase to 40,840,000 bushels.	50,949,000	Nov. 16, 1961, Aetna to M. O. Andrews (demanding CPA audit for 1962 renewal) Dallas transcript, Apr. 20, 1962, p. 138.
7. Feb. 24, 1962 (bond No. 18 A 40,477)	do			

NOTE.—Transcript references refer to official transcripts of Attorney General's antitrust hearings in Lubbock on Apr. 19, 1962, and in Dallas on Apr. 20, 1962.

Mr. WILLIAMS of Delaware. Madam President, the enclosure which accompanied the letter shows how Mr. Estes' grain storage capacity advanced from February 24, 1959, at Plainview, from 2,960,000 bushels to 50,949,000 bushels on February 24, 1961, and that during all of that time the maximum bond required was $700,000.

Madam President, I also ask unanimous consent to have printed in the RECORD excerpts from the press conference as reported on the news ticker today, in which Secretary Freeman points out the Department's position in connection with what he infers is the lack of need for further investigation in his Department. In this press notice I note the following statement:

Freeman said under questioning about the Department action in locking N. Battle Hales from his office, which contained Estes files, that the action was taken because it was possible national security was involved. He did not pursue this further.

Just how the disclosure of wrongdoing in the Department of Agriculture can affect our national security is a point which I cannot understand.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

He referred to Emery E. Jacobs, a Deputy Administrator of the Agricultural Stabilization and Conservation Service who resigned after he was linked with Estes gift giving; William Morris, staff assistant to former Assistant Secretary James Ralph who was

fired after he refused to answer Department questions, and Ralph himself whose connection with the Estes case is still in the hands of the FBI.

Freeman said he knew that Estes was having difficulty with the Department over cotton allotments when he was appointed to the National Cotton Advisory Council in July 1961.

He pointed out that trouble over cotton allotments in many instances has been referred to as a "lawyer's quarrel."

What one set of lawyers may decide is illegal and another may decide is legal and proper still is a matter for the courts to decide, Freeman observed.

Freeman conceded in response to questioning that in hindsight the Department probably should have dealt with the Estes case more expeditiously. He said that any similar cases would be handled more quickly in the future.

Had the Department not followed its regular administrative procedures in the Estes case, he said, the Department might have become vulnerable to lawsuits. He said there is still a probability that the matter will be reviewed in the courts.

Freeman said that he has discussed the Estes case with Atty. Gen. Robert F. Kennedy and with White House aids. He also said that he had mentioned it informally to the President but refused to give any of the substance of his discussion with the President.

In regard to the three Department employees, Freeman said that so far as he knew there had been no adverse report on the appointment of Jacobs. He said that Morris was appointed under civil service regulations. Ralph was named to his post by Freeman.

Ralph, the Secretary said, denied that he purchased anything while accompanied by Estes, but admitted that he was fitted for some clothing. Freeman said Ralph denied both to him and under oath in Texas that he accepted anything from Estes.

Freeman said he was withholding any final opinion on Ralph pending an FBI report. Ralph is under appointment as an agricultural attaché to the Philippines.

Freeman said there had been no pressure put on him to drop the Department's investigation of the Estes case.

"I would violently reject any such pressure," Freeman said.

It was learned, meanwhile, that Ralph offered his resignation to Freeman on April 16.

A source said Freeman and Ralph discussed the question of whether Ralph should remain on the Government payroll while the case was under investigation. The informant said Freeman at one point recommended that Ralph resign, but when the subordinate later offered to quit, Freeman did not accept the offer.

Ralph said today he was still going about his preparations to go to the Philippines.

Freeman said that Ralph's demotion as Assistant Secretary to the post of agricultural attaché had nothing to do with the Estes case.

Freeman said "no" when asked if he knew of any political contributions ever being solicited from Estes.

Freeman was asked if he had ever met Estes. He said that to his best recollection he met Estes one day when the Texan was in the Department to confer with General Counsel John Bagwell.

Freeman said under questioning about the Department action in locking N. Battle Hales from his office, which contained Estes files, that the action was taken because it was possible national security was involved. He did not pursue this further.

Hales made a charge of favoritism in the Estes case against Department officials in a news conference last week.

At Freeman's request, Horace Godfrey, Administrator of ASCS, said there were lots of files in Hales' office and that when Hales was transferred to another office he had no use for the Estes files.

Freeman said he had laid down a hard rule about gift taking by the Department.

"You gotta be pure—you gotta look pure," Freeman said.

"That is a hard rule but that's the way I want it."

The Secretary opened his conference with the statement he wanted these points "sharply in focus."

That the investigation, arrest, and indictment of Estes was conducted by the Department of Justice in this administration.

That as soon as he received reports that Estes had relations with the Department "other than appropriate" he called for a complete review and sent the information to the FBI.

At one point Freeman said, "I do not want to make it appear that this [case] is not important. But it has ballooned out of all importance. There is no evidence that any of the three employees made any decision that favored Billie Sol Estes."

Freeman said one of the most perplexing elements in the Estes cotton case is the fact that no one is now sure what instructions were given to county officials in Texas who handled Estes proposal to transfer cotton allotments more than a year ago. The Department official who gave instructions to the committees originally, Henry Marshall, is dead.

"What happened in these Texas counties is something nobody knows because the key man is not alive," Freeman said.

Mr. WILLIAMS of Delaware. Madam President, based on what information I have available, I fail to see where national security could be involved in connection with what may have occurred in the financial transactions of Mr. Estes. I can see where it might be dangerous to certain individuals, but certainly from a national security standpoint I do not believe that is a basis at all for holding off on the investigation.

I next ask unanimous consent to have incorporated in the RECORD correspondence between Mr. Estes and Mr. Morris, one of the employees of the Department of Agriculture, who either resigned or has been fired—I am not sure which—although one of the reports I have received—and I have not been able to get any report directly from the Department of Agriculture—is that he is on annual leave, and they are waiting to see whether or not to reinstate him.

I ask that this series of correspondence be printed in the RECORD at this point.

First there is the letter of March 17, 1961, signed by Mr. Morris. It is addressed to Mr. Estes; another letter is Mr. Estes' reply thereto, dated March 21, 1961; and the third letter is dated March 27, from Mr. Morris to Mr. Estes.

These letters show the close relationship between Mr. Morris, the Department of Agriculture official, and Mr. Estes.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MARCH 17, 1961.

DEAR BILLIE: Reading this item today I thought of your plans for oversea marketing of grains. As I recall the news article you handed me, you propose construction of your own port terminal facilities in the United States as well as warehouses overseas to handle your grain.

I wonder if you have given any consideration to owning and operating your own ships. If studies showed you would ship enough of your own cargo to break even on operating expenses, amortization, etc., any other cargo would represent profit and vice versa. In addition, there would also be certain business advantages in maintaining control of the entire movement.

When I worked for the U.S. Maritime Commission I recall some good deals on surplus ships but do not know the current situation. However, there should be considerable public support for a theoretical proposal to buy a ship or two now laded with grain and move it into world trade channels. This could not actually be done but the comparison could be made in support of sale of surplus Government ships for such a worthy use.

Maybe I am presumptious in referring this to your attention, but I know how receptive you are to ideas and thought possibly this might not have occurred to you.

Regards,

BILL MORRIS.

MARCH 21, 1961.

Mr. BILL MORRIS,
McLean, Va.

DEAR BILL: Thank you so much for your letter dated March 17, 1961.

I am going to look into the possibility of purchasing my own ships. I think it is a wonderful idea because as we will be exporting vast quantities of grain I believe it would be feasible to own our own ships. Also, it might be that we could bring back merchandise to sell to markets here in the United States. Any ideas that you might have concerning this matter I would appreciate your advising me of them. You know the great oaks grow from a small acorn, and it takes many ideas to make a reality. Also it takes 79,860 drops of water to make a gallon and you don't have the full amount of water without each drop, and if you do not plant any seed you will never harvest anything.

It is always good to hear from you, and I hope everything is well with you and your family.

Very sincerely,

BILLIE SOL ESTES.

MARCH 27, 1961.

DEAR BILLIE: Your letter of the 21st was a welcome and pleasant surprise awaiting my return from Denver. Got in about 2 a.m. Saturday and had to be in the office all day Saturday so this is my first opportunity to share some thoughts with you.

You have made a mistake in inviting my ideas because I am, frankly, so enthusiastic about you and your noble plans for the future that you may be burdened by my comments. But Government is so stultifying to a fellow like me that the excitement of private venture into new fields cannot be denied.

This is written upon the assumption that you will see the wisdom of buying and/or chartering the bottoms for your grain shipments overseas, and that you will exercise exclusive management control over the entire operation. Am sure you already see the wisdom of this.

As a first consideration, I would like to see you recapture or reincarnate the spirit of the Yankee trader who pioneered American maritime trade in an era of fierce competition, and would suggest that your ships be so christened (i.e., SS *Pecos Trader*) to tell the world that you are a "trader," and not just an American merchant. Then, I assume that both under Public Law 480 and as an independent grain trader you will reach for the dollar market first but will also be ready to market our blessings of abundance

for local currencies. By so doing you will establish your first, major competitive advantage.

Having established local credit balances in other countries and with cargo space available for return trade, I see a horizon of unlimited opportunity and this is the phase that excites me. As I see it, the secret of success in business is a combination of personal drive and the creation or seizing of competitive advantage. In the field of international trade the major advantage is the relative cost of labor, so priority of consideration must be given to raw materials and finished products which involve high labor input in their production or processing (i.e., high labor chemicals, hand fabricated goods, etc.). I am of the belief that almost anything can be merchandised in the United States if it is competitively priced, and this should represent your second advantage.

Market development here in the United States for imported goods should have equal priority with the development of foreign markets for our agricultural surpluses. Domestic demand exists—it only has to be identified and developed. I would start with men like yourself who have built ideas into business structures, and I think immediately of a good friend in Clara City, Minn., who was a small merchant less than 20 years ago and who today operates as buying, promotion, and advertising agent for an association of more than a thousand locally owned and independent "V" stores in 20 or more States. Gordon Yock was a little man who thought big, he saw a need, and he met it.

For a modest markup he gives his member-merchants a competitive advantage and his profits parallel theirs. I believe Gordon would be immediately interested in an opportunity to order in quantity staple goods and promotion items for his "V" Store network.

Gordon Yock and his "V" Stores typify American enterprise which is constantly alert, and I believe before your first ship sails you can establish certain market outlets for competitively priced imports.

Then I would consider erecting on each ship a "trade room" to display samples of goods available for import in quantity at competitive prices. Houston, New Orleans, etc., are great convention centers and when American merchants have their trade shows and conventions at these sites the ships could be scheduled in for them to be invited aboard to buy from our good neighbors in the far corners of the world. If the door is properly opened, jobbers and brokers will seek you while you look for them.

There is, of course, an abundance of goods overseas awaiting markets. Under the circumstances, however, there is no necessity for limiting ones operations to existing production facilities. If domestic market opportunities can be established, mutual assistance funds and technical assistance are available for the development of new industries overseas and the training of skilled craftsmen. From friends in mutual security, Export-Import Bank, etc., I know these credit and financial aids are available to the lands with which you will be doing business, and think if you will of the competitive advantage involved in the output of subsidized mills and factories with relatively cheap labor.

As I visualize it, a very modest merchandising and promotion staff of traders could do the job. I would concentrate on quality rather than quantity of manpower and as you know from experience, there is a man someplace equal to every job requirement. The problem is to find him and you obviously possess that talent.

Involved in all this is the vital element of public relations—both at home and abroad—which must not be overlooked. As you grow bigger and more competitive, the attacks of your critics and your competitors will keep pace. You know that already this is so, and in our system survival not to mention success are reserved for the fittest. I see nothing intrinsically wrong with this, but much of it can be avoided by effective public relations. Hence, a few concluding ideas on this important subject.

You typify the American success story. You propose bold, exciting new ventures into the field of mutually rewarding world trade. The "Billie Sol Estes Good Will Enterprise" you are about to launch has in it a series of stories appealing to people both at home and abroad. If practical, you might consider offering to your church—and then to others—on a "space available basis" free transport for surplus food, clothing, etc., to their missions abroad. Nothing yet devised equals the "people to people" helpfulness, and think of the image you would create if you helped facilitate these worthy causes. Think, also, upon the personal satisfaction.

These, Billie, are but a few rambling observations. I truly envy you and your associates the challenges and opportunities before you, and anything I can do to encourage you will be rewarding to me as success crowns your ventures.

Regards,

BILL M.

P.S.—These are generalities. If there are some specifics you would like me to work on, drop me a note and I'll do my best. Bless you.

Mr. WILLIAMS of Delaware. Madam President, I quote an interesting paragraph from the letter of March 25, 1961:

As a first consideration, I would like to see you recapture or reincarnate the spirit of the Yankee trader who pioneered American maritime trade in an era of fierce competition, and would suggest that your ship be so christened (i.e., SS *Pecos Trader*) to tell the world that you are a trader, and not just an American merchant. Then I assume that both under Public Law 480 and as an independent grain trader you will reach for the dollar market first but will also be ready to market our blessings of abundance for local currencies. By so doing you will establish your first, major competitive advantage.

We must remember that these letters were written to Mr. Estes by a top official of the Department of Agriculture and written by a man who allegedly accepted gifts from Mr. Estes.

Certainly Congress has a responsibility to see what, if any, favors were extended to Mr. Estes.

I have a few letters here, also, which were written by Mr. Morris under date of September 22, 1961, October 2, 1961, and an unsigned letter taken from the files labeled "Bill Morris" which was introduced in evidence at Dallas.

These later letters have all been introduced as evidence and have been commented upon in the press.

Two were written by Mr. Morris and certainly indicate that it was his intention to help arrange a source of political influence in Washington to help Mr. Estes in his grain operations.

I ask unanimous consent to have these letters printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 22, 1961.

DEAR BILLIE: You will recall, I discussed with you the proposed reprinting of one of Dr. Ralph's significant speeches. From the CONGRESSIONAL RECORD of September 20, is an insertion by Congressman HARLAN HAGEN, of California, of the speech entitled "Promoting and Protecting the American Way of Life in Agriculture."

My best estimate is that it will cost $218.76 to reprint 25,000 with envelopes. These will be pamphlet size, eight pages, and permission will be granted to use Congressman HAGEN'S frank, which in the case of 25,000 is the equivalent of $1,000 postage.

If you are still of the mind to make this contribution, I would suggest that you send me a check in the amount of $220, made payable to the "treasurer, Democratic National Committee," indicating on the check that it is for HARLAN HAGEN, Member of Congress, if you care to do so. I will then take the check to the national committee and have them credit you with the contribution and issue a similar check to the Congressman to reimburse him for the printing costs.

While you're at it, if you are still in a generous mood, you might make out a check to the "treasurer, Democratic National Committee," in the amount of about $200 for ED EDMONDSON, Member of Congress. He is very close to Congressman CARL ALBERT and is in a serious financial bind on some campaign regards.

Sincerely,

BILL.

SEPTEMBER 25, 1961.

MR. BILL E. MORRIS,
McLean, Va.

DEAR BILL: I am enclosing my checks as requested in your letter dated September 22, 1961. I am happy to make these contributions.

Sincerely yours,

SOL.

OCTOBER 2, 1961.

DEAR BILLIE: I once worked for a Congressman who rejected a contribution because it consisted of hundred dollar bills and he didn't "like big bills." That almost put an end to my efforts to help finance his campaign. Sometimes helping others gets a bit discouraging—as you so well know.

Enclosed are the checks you so graciously sent. It now develops that the national committee has made an agreement with the congressional committee that all help will be channeled through the latter. So, if you don't mind, would you please cancel the enclosed and have them made out directly to the two Congressmen in the amounts indicated and send to me. I will then deliver them and the job will be completed.

My reason, as you know, for wanting to channel through national was to establish credit with them as well as the individual Members of Congress. However, I will see that this is done informally so the net result will be the same.

Sorry for the burden, but can't help it. It is a nuisance to me as well as it is to you. Tell everyone hello.

Sincerely,

BILL.

BILLIE: You recall we have discussed the wisdom of a "good" Republican contact in Congress. We considered H. CARL ANDERSEN, of Minnesota (top Republican on the House Agricultural Appropriations Subcommittee and third ranking on the full Appropriations Committee), a good choice.

Talking to him yesterday he made a suggestion I commend to you. He and his brother have a new coal mine in Washington just outside Seattle. They are a coal mining family of Danes and this will be the most modern mine possible including the first operation of new Bureau of Mines developed equipment. The mine is in production and more capital is required to be able to bid on big State, Federal, and other contracts. Most of the stock is owned by the Andersen family.

They have authorized the sale of some additional stock. Most of it is committed, but Congressman ANDERSEN hopes you might take $1,500 or $2,000 worth of it. He would be willing to agree to buy back the stock after May 1, 1962, at 110 percent or after May 1, 1963, at 120 percent with a time limit of 1 year thereafter (his brother died a few months ago and left an estate of about $100,000 mostly in Government bonds. He will have his share in a few months and this is the basis behind the offer). If you would like to buy the stock he suggests you send the check care of me made out to: Treasurer, Coal, Inc. for the number of shares of stock ($100 per share) and I would hand him the check in exchange for his letter addressed to you confirming the commitment to repurchase at your option.

He is really in a bind right now, is good about standing by his commitments and his friends, and this could be a good investment. Let me know about your decision right away. It means nothing to me personally—you judge what it might be worth from your standpoint.

(Unsigned letter taken from file labeled "Bill Morris" introduced in evidence at Dallas.)

Mr. WILLIAMS of Delaware. Mr. Morris in these letters indicated his intention to make arrangements with Members of Congress in connection with getting their cooperation for Mr. Estes. These letters represent an open solicitation of political contributions by Mr. Morris as a Department of Agriculture official from Mr. Estes, a man doing business with the Government through his Department.

I conclude my remarks by stating that in light of the serious charges which have been made and the inferences which have been drawn from these statements, I do not believe Congress has any alternative other than to pursue the investigation to a conclusion, to determine whether or not there has been and, if so, to what extent there has been an improper alliance between Mr. Estes and any Government official, either at the high level here in Washington or at the lower level in the field.

I do not believe it is enough to say that no evidence of favortism has been found, when three men have already left the Department—one has been fired, one is being investigated, and one has resigned. Certainly there is evidence enough already available to indicate that this investigation cannot be stopped at this time.

I care not which administration may be affected; the point is we have no choice in Congress except to pursue the investigation, to let all the facts come out, and to let the facts speak for themselves.

I disagree completely with the conclusions of the Secretary in his statement this morning that whatever might have been wrong in the handling of the acreage allotments was attributable to a man who a few months ago died, presumably as a suicide. I must say, in that connection, it was a rather strange circumstance for a suicide to die as the result of several bullet wounds inflicted with what was referred to as a bolt action rifle. I have had greater respect for the marksmanship of Texans.

Congress has a responsibility to get all the facts, and certainly the American people are entitled to know them.

Mr. Estes did obtain from the Department of Agriculture decisions which allowed him to pyramid his grain storage operations and which allowed him to obtain thousands of cotton acreage allotments under circumstances which are now admittedly wrong if not actually illegal. Admittedly the men who were in a position to grant him these favorable decisions were accepting lavish gifts from Mr. Estes.

What more proof do we need to show that this case demands a full investigation?

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. BYRD of Virginia. Madam President, here we have another so-called civil rights bill which has been grinding the important legitimate work of Congress to a halt. This is the second time in 40 days. Those responsible should have reconsidered their action and taken this proposal down long before now.

As is usual with so-called civil rights bills, this one also has been foisted on the Senate by means of unorthodox procedure. It is here without adequate committee consideration, without committee approval, and without even a committee report.

As is usual with so-called civil rights bills, and like a tail wagging the dog, the proposal is in the form of a major amendment to an innocuous bill as with the Stella schoolhouse bill, the Alexander Hamilton Memorial bill, and now the bill for the relief of James M. Norman.

When the bill was introduced its proponents said it was for the purpose of "protecting the right to vote in Federal elections free from arbitrary discrimination by literacy tests or other means." It would amend the elective franchise provisions in existing law.

Like most so-called civil rights bills, this one also can be described as useless, irritating, and unconstitutional. If anything is more fundamentally American and thoroughly constitutional than the right of States to fix voting qualifications, it is hard to find.

The bill is true to the civil rights legislation pattern. It has the usual bleeding-heart preamble followed by substantive provisions so imperfectly drawn that it is difficult to determine whether it is by design or inexcusable carelessness.

I quote directly from page 3 of the bill as introduced, beginning on line 5:

No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such person to vote or to vote as he may choose in any Federal election, or subject or attempt to subject any other person to the deprivation of the right to vote in any Federal election. Deprivation of the right to vote shall include but shall not be limited to (1) the application to any person of standards or procedures more stringent than are applied to others similarly situated and (2) the denial to any person otherwise qualified by law of the right to vote on account of his performance in any examination, whether for literacy or otherwise, if such other person has not been adjudged incompetent and has completed the sixth primary grade of any public school or accredited private school in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

Federal election means any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representative, Delegate, or Commissioner from the territories or possessions.

The language just read from the bill is typical of the so-called civil rights proposals. It is defective to begin with, and was never given the benefit of committee perfection. It should be embarrassing to both its patrons and its proponents.

Attention is invited to the language in lines 18 through 21, which provides "* * * has completed the sixth primary grade," and so forth. There is neither provision nor requirement for either proof or oath that the person has finished the sixth grade.

What is an election or registration official to do if he has reason not to believe such a statement or suspect its accuracy? Would the statement be written or oral? According to the preamble, it might even be in a foreign language.

Attention is invited to the language on lines 15 through 21, which provides that a person otherwise qualified cannot be denied the right to vote on account of his performance in any examination "if he has completed the sixth primary grade," and so forth.

What would be the situation if no examination were given, but a seventh grade certificate or high school diploma were required? Do proponents of this measure approve of this language as it is drafted in the bill?

Attention is invited to the language in lines 11 through 14, which provides that "deprivation of the right to vote shal not be limited to (1) application to any persons of standards or procedures more stringent than are applied to others." And so forth.

"Standards and procedures" with respect to what? Voting, registration, driving automobiles, flying spaceships? What standards and procedures? The bill does not say. Such loose language is enough to horrify good legislative draftsmen and judges who might have to decide cases under it.

Attention is invited to the language in lines 19 through 21, where reference is made to completion of the sixth grade in public or accredited schools in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

What about Europe, the Near East, and the Far East? The people of the United States are spending millions of dollars for the education of the children of members of our Armed Forces stationed in these areas, and they have been doing so for years.

These schools are paid for with our money. They are for the children of our own people. They are taught by our own teachers. They meet all the

requirements of our own public and accredited schools. They, too, have a sixth grade.

But they happen to be in places other than the States and territories, the District of Columbia or the Commonwealth of Puerto Rico. They are in Germany, Turkey, Japan, and elsewhere. There are many schools, and tens of thousands of pupils.

Is the purpose of this measure to disfranchise those who may rely on this provision, if they have completed the sixth grade in one of the schools conducted for our Armed Forces in some area not specified in this measure?

Attention is invited to the language in lines 18 and 19, which provide "has completed the sixth grade," and so forth. It does not say "has successfully" completed the sixth grade; and neither does it say has completed more than six grades.

It is conceivable that a person might have completed the sixth grade, but with unsatisfactory grades, and did not return to school after the unsatisfactory completion of the sixth grade. What would be his status under this loose language?

There is a man in the Capitol—a highly educated gentleman. He is a good citizen in all respects. He is known to every Member of the Senate. He was so proficient in school, he was promoted from the fifth to the seventh grade.

In the simple language of school children, he "skipped" the sixth grade; but he has college degrees, and he has completed graduate school. What would be his status if he relied on this provision for his right to vote?

If analysis of the language in the bill sounds like ridicule, I submit that those responsible for the technical drafting of this proposal are entitled to criticism of this nature. I am sure the sponsors did not intend for it to be so ridiculous.

Here we have a horrible example of what unorthodox legislative procedure produces. The technical deficiencies I have pointed out are only some of those—not all—which characterize this proposal. I shall mention one more, and it is important.

Mr. ERVIN. Madam President, will the Senator from Virginia yield?

Mr. BYRD of Virginia. I yield.

Mr. ERVIN. Section 2 contains language which provides, in substance, that no person shall be deprived of the right to vote on account of his performance upon examination, whether for literacy or otherwise. Does not the Senator from Virginia interpret that provision to mean that its benefit is intended for persons who flunk the literacy test, or who in other words demonstrate in a literacy test that they are illiterate? Does not the Senator agree with my observation that this provision makes a rank discrimination between illiterate persons who have completed the sixth grade and illiterate persons who have not had the opportunity to go as far as the sixth grade?

And if a State were to pass a law making such a discrimination between illiterate people, would not the equal-protection clause of the 14th amendment require that the State be declared to have been guilty of a discrimination which the 14th amendment forbade?

Mr. BYRD of Virginia. I thoroughly agree with the distinguished Senator from North Carolina.

Mr. ERVIN. Can the Senator from Virginia think of any reason why Congress should be so solicitous about illiterate persons who have completed the sixth grade, but not about illiterate persons who have not completed the sixth grade?

Mr. BYRD of Virginia. The Senator from North Carolina has put his finger on one of the vital parts of the bill which, to me, is ridiculous.

Madam President, attention is invited to the fact that the language in lines 5 through 21 relates to participation in any Federal election. Attention is further invited to the language in line 22 through line 3 at the top of page 4, which defines a Federal election.

A Federal election for purposes of this proposal "means any general, special, or primary election held solely or in part for electing any candidate for the office of President, Vice President, presidential elector, Member of the Senate, House," and so forth.

It is important to note the difference between this language and the language in the present law—the elective franchise provisions in 42 U.S.C. 1971. These provisions read as follows:

> Voting rights—intimidation, threats, or coercion: No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

Under this existing Federal law its application is limited to voting for candidates for Federal office. Under the pending measure the change proposed is radical; if there is one candidate for Federal office, it would be applicable to voting on all candidates.

If one candidate for Federal office were running, provisions of the pending proposal would apply to elections primarily for school boards, county boards, sheriffs, judges, city councils, Governors, and even State legislatures.

The effect of this bill might easily be to reverse section 2 of article I of the Constitution of the United States. Consider an election where candidates for Members of the U.S. House of Representatives and candidates for the State legislature were running. Under terms of the proposal, the Federal statute would apply. On the contrary, section 2, article I of the Constitution of the United States says:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Where would we stand? Does this bill, by indirection, attempt to fix the qualifications of those who may wish to vote for candidates for State legislatures? What would be the situation with gubernatorial elections, councilmanic elections, and so forth?

The Constitution dealt with the exercise of the franchise at least nine times—five times in the original document and four times in subsequent amendments. The right of States to establish their own voting qualifications is crystal clear throughout.

The framers of the Constitution debated fully the question of who should establish qualifications for exercise of the franchise; and their decision, as established in article I, section 2, was that the States should have the power.

This has been established and accepted for 170 years. Yet, at this late date it becomes necessary repeatedly to remind the U.S. Senate of this fact—twice, I may say, in the past 40 days. Those who would defend constitutional government are entitled to know why.

This particular attack is not directed at Virginia. We were under fire last month. But I shall join the fight in defense of the constitutional rights of States, wherever and whenever they are invaded. The reason goes to the fundamentals of our system.

Our system of government is based on the broad proposition that the States are "several as to themselves, and one as to all others." If the evils of highly centralized government are not already known in this country, we are seeing more of it every day.

Of course, there must be a Central Government to represent the Nation, where it must act as a unit; but the strength of this Nation lies in keeping domestic government close to the people—in the sovereign States and the localities within them.

Fixing the qualifications for voting goes to the heart of the system. In Virginia, voter registration is as simple as possible for all citizens with any inclination toward interest, initiative, and responsibility. But even this is now under attack.

This so-called literacy bill is a symbolic sign of the time; but it is only one. There are other signs pointing in the same direction. In times such as these, it is well to take heed of the warning given us by George Washington in his Farewell Address:

> Let there be no change by usurpation; for though this in one instance may be the instrument for good, it is the customary weapon by which free governments are destroyed.

In the most charitable attitude, it may be assumed that the pending proposal, in the minds of some, could offer some transient benefit in some remote area with which I am not familiar. But the usurpation would certainly be detrimental to the nation.

If there should be any justification for the contentions made by the proponents of this measure, I hold that State governments are competent to make corrections where they are proper. In any event, this is a matter outside the Federal sphere.

It has been outside the Federal sphere since the beginning. In examining the power to establish voter qualifications, in the Federalist Papers (No. 60) Alexander Hamilton said:

> This forms no part of the power conferred upon the National Government.

Pursuant to the 10th amendment, and to the tenor of the entire Constitution, this power, not having been delegated to the Central Government is reserved to the States.

As for judicial interpretation, the Supreme Court, in *Ex parte Yarbrough*, 110 U.S. 651 (1884), said:

> The State defines who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for members of Congress in that State.

The Congress, itself, by frequent reference to State-established voter qualifications, has affirmed and reaffirmed this interpretation. What are the reasons why Congress and the courts should now renounce their own acts?

It is clear that the Constitution as interpreted by its authors, the Supreme Court, and the Congress, reserves to the States the power finally to determine who should exercise the franchise. Who are the men of superwisdom who now find this to be all wrong?

The advocates of the pending measures rely on article I, section 4, of the Constitution; section 5 of the 14th amendment; and section 2 of the 15th amendment; and Congress' responsibility to protect the integrity of the Federal electoral process.

Article I, section 4, states that "the Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof;" but it says:

> * * * the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

This language might be ambiguous and subject to misinterpretation if it were not a fact that article I, section 2, has already said that the "Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Those who study the reasons for provisions in the Constitution know that section 4 of article I was intended to meet a situation where a State might seek to withdraw from the Union simply by failing to elect their representatives in the National Congress.

Under section 4 Congress had the power to set the time, place, and procedure for its own elections. James Madison said they would "probably, forever be conducted by the officers, and according to the laws of the States."

Following the War Between the States, Congress enacted legislation to secure the right to vote and other so-called civil rights to newly freed Negroes. The propriety of this type of legislation is shown by the fact that most of it was held unconstitutional or repealed.

Even when the Supreme Court upheld parts of this legislation, it specified that the rights protected were the rights of qualified voters. Qualified voters were those with "Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Thus in Ex parte Yarbrough, a unanimous Court acknowledged that the States "define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualifications thus furnished as the qualification of its own electors for Members of Congress."

In Guinn against United States, the question was the validity of a combined literacy test and "grandfather clause" under the 15th amendment, but in the course of its opinion the Court said:

> No time need be spent on the question of the validity of the literacy test considered alone since, as we have seen, its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision.

In United States against Classic, referring to the right of citizens to vote, the Court stipulated that the right belongs to qualified voters:

> The right of qualified voters to vote in the congressional primary in Louisiana * * * is thus the right to participate in that choice [of a Congressman].

In the same opinion, the Court, in passing upon a law making it a crime to discriminate against a prospective voter, stated:

> So interpreted, section 20 applies to deprivation of the constitutional rights of qualified voters to choose representatives in Congress.

The Supreme Court, to date, has always, either expressly or impliedly, recognized that the qualification of electors is a matter separate and apart from the time, place, and manner of an election.

Furthermore, the Court, to date, has always recognized the power, vested in the States by the Constitution, to set their own voter qualifications within the limits of the 15th and 19th amendments.

In short, under the Constitution, the Congress may control the time, place, and manner of holding elections for Senators and Representatives, but the qualifications of those who vote in elections shall be determined by the States.

Turning to the power of Congress under the 14th and 15th amendments, the pending proposal is said to be aimed at the prevention of racial discrimination in fixing the right to vote in Federal elections as they are defined in the measure.

Mr. ERVIN. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER (Mr. METCALF in the chair). Does the Senator yield?

Mr. BYRD of Virginia. I yield.

Mr. ERVIN. The Senator from Virginia has pointed out that the provision of the Constitution declaring that electors for Senators and Representatives shall have the qualifications requisite for electors of the most numerous branch of the State legislature is exceedingly clear. I will ask the Senator from Virginia if the pending bill does not undertake to do this for all practical intents and purposes: The electors of Senators and Representatives in Congress shall not be the electors having the qualifications to vote for the most numerous branch of the State legislature—as the Constitution declares—but, on the contrary, they shall be persons who have completed the sixth grade, regardless of whether or not they ever learned anything while they were in school.

Mr. BYRD of Virginia. I think the Senator is entirely correct. There would certainly be a conflict in that particular.

There is substantial authority to the effect that the 14th amendment did not have as one of its purposes the elimination of racial discrimination in voting.

With regard to the first section of the amendment, the Supreme Court in 1874 held:

> It is clear, therefore, we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted.

In 1937, Justice Butler, in an opinion concurred in by Justices Brandeis, McReynolds, Sutherland, Stone, Roberts, Cardozo, and Black, held that the right to vote is conferred by the States, "save as restrained by the 15th and 19th amendments," the necessary inference being that the 14th amendment is inapplicable.

In Terry against Adams, Mr. Justice Frankfurter stated:

> The 15th amendment, not the 14th, outlawed discrimination on the basis of race or color with respect to the right to vote.

This case history shows that, whatever may be the current trend of decisions, the 14th amendment was not adopted for the purpose of prohibiting racial discrimination in respect to the right to vote.

If that had been the effect of the 14th amendment, there would have been no need for the 15th amendment. It has been said that section 2 of the amendment was adopted because the States would not surrender their power over the franchise.

Decisions in cases on this point may be summed up in the statement that the 15th amendment confers on Congress only the authority to penalize State action under the color of laws which the States are constitutionally prohibited from making or enforcing.

The purposes sought by the pending proposal is to outlaw by Federal statute State literacy tests. But State literacy tests, under the Constitution, are not prohibited in the States which have them. State literacy tests for voting repeatedly have been upheld.

The North Carolina literacy statute was most recently tested. That statute provides that persons presenting themselves for registration should be able to read and write any section of the constitution of North Carolina in the English language.

Justice Douglas, writing for a unanimous Supreme Court, said:

> In our society * * * State might conclude that only those who are literate should exercise the franchise.

If Congress is restricted from making laws in the premises except where States have made laws which they are "prohibited from making or enforcing," it

follows that Congress has no power to enact a law controlling this situation.

With respect to the selection of the electors who in turn elect a President and Vice President, the Constitution provides:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

The words "in such manner as the legislature thereof may direct" are conclusive in determining authority for control of presidential elections.

The Supreme Court of the United States in the case of *McPherson* v. *Blacker* (142 U.S. 1, 36 L. Ed. 869), clearly and unequivocally sustains this contention.

In short, the appointment and mode of appointment of electors belong exclusively to the States under the Constitution of the United States. They are, as remarked by Mr. Justice Gray in *In re Green* (134 U.S. 377, 379 (33:951, 952)), "no more officers or agents of the United States than are the members of the State legislatures when acting as the electors of Federal Senators, or the people of the States when acting as the electors of Representatives in Congress." Congress is empowered to determine the time of choosing the electors and the day on which they are to give their votes, which is required to be the same day throughout the United States, but otherwise the power and jurisdiction of the State is exclusive, with the exception of the provisions as to the number of electors and the ineligibility of certain persons, so framed that congressional and Federal influence might be excluded.

The question before us is not one of policy but of power, and while public opinion had gradually brought all the States as matter of fact to the pursuit of a uniform system of popular election by general ticket, that fact does not tend to weaken the force of contemporaneous and long continued previous practice when and as different views of expedience prevailed.

It is contended by defendants that presidential electors are officers of the State and not Federal officers. We are of the view that this contention is sound and should be sustained, article 2, section 1, U.S. Constitution (citing also, *Burroughs* v. *U.S.*, 290 U.S. 534, 78 L. Ed. 484).

In conclusion, I wish to read directly from the unanimous Supreme Court decision in a case against Gradwell and others (243 U.S. 1916) handed down by Justice Clarke. He said in part:

The power of Congress to deal with the election of Senators and Representatives is derived from section 4, article I of the Constitution of the United States, providing that:

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

Whatever doubt may at one time have existed as to the extent of the power which Congress may exercise under this constitutional sanction in the prescribing of regulations for the conduct of elections for Representatives in Congress or in adopting regulations which States have prescribed for that purpose has been settled by repeated decisions of this Court, in *Ex parte Siebold*, 100 U.S. 371, 391 (1879); *Ex parte Clarke*, 100 U.S. 399 (1879); *Ex parte Yarbrough*, 110 U.S. 651 (1884); and in *United States* v. *Mosley*, 238 U.S. 383 (1915).

Although Congress has had this power of regulating the conduct of congressional elections from the organization of the Government, our legislative history upon the subject shows that, except for about 24 of the 128 years since the Government was organized, it has been its policy to leave such regulations almost entirely to the States, whose representatives Congressmen are. For more than 50 years no congressional action whatever was taken on the subject until 1842 when a law was enacted requiring that Representatives be elected by districts (5 Stat. 491), thus doing away with the practice which had prevailed in some States of electing on a single State ticket all of the Members of Congress to which the State was entitled.

Then followed 24 years more before further action was taken on the subject when Congress provided for the time and mode of electing U.S. Senators (14 Stat. 243) and it was not until 4 years later, in 1870, that, for the first time, a comprehensive system for dealing with congressional elections was enacted. This system was comprised in sections 19, 20, 21 and 22 of the Act approved May 31, 1870, 16 Stat. 254; and in the Act amending and supplementing these acts, approved June 10, 1872, 17 Stat. 347, 348, 349.

These laws provided extensive regulations for the conduct of congressional elections. They made unlawful, false registration, bribery, voting without legal right, making false returns of votes cast, interfering in any manner with officers of election and the neglect by any such officer of any duty required of him by State or Federal law; they provided for appointment by circuit judges of the United States of persons to attend at places of registration and at elections with authority to challenge any person proposing to register or vote unlawfully, to witness the counting of votes and to identify by their signatures the registration of voters and election tally sheets; and they made it lawful for the marshals of the United States to appoint special deputies to preserve order at such elections with authority to arrest for any breach of the peace committed in their view.

These laws were carried into the revision of the U.S. Statutes of 1873–74, under the title "Crimes Against the Elective Franchise and Civil Rights of Citizens," Rev. Stats., sections 5506 to 5532, inclusive.

It will be seen from this statement of the important features of these enactments that Congress by them committed to Federal officers a very full participation in the process of the election of Congressmen, from the registration of voters to the final certifying of the results, and that the control thus established over such elections was comprehensive and complete. It is a matter of general as of legal history that Congress, after 24 years of experience, returned to its former attitude toward such elections and repealed all of these laws with the exception of a few sections not relevant here. Act approved February 8, 1894, 28 Stat. 36. This repealing act left in effect as apparently relating to the elective franchise, only the provisions contained in the 8 sections of chapter 3 of the Criminal Code, sections 19 to 26, inclusive, which have not been added to or substantially modified during the 23 years which have since elapsed.

The policy of thus entrusting the conduct of elections to State laws, administered by State officers, which has prevailed from the foundation of the Government to our day, with the exception, as we have seen, of 24 years, was proposed by the makers of the Constitution and was entered upon advisedly by the people who adopted it.

The United States has no voters in the States of its own creation as all elective officers of the Federal Government are elected, directly or indirectly, by State voters. The rights of franchise or the right to exercise it by voting is not an incident of national citizenship; neither is the right to vote a necessary incident of State citizenship.

The right or privilege of a person to vote for a Representative or a Senator in Congress depends upon whether such person is in fact qualified under the law of his State of residence to register and vote in his State for a member of the most numerous branch of the State legislature.

The 14th amendment did not extend the franchise to anyone. The 15th amendment did not extend the franchise to anyone; it merely gave the right to not be discriminated against or denied the franchise and the right to vote on account of race, color, or previous condition of servitude; and Congress was thereby empowered to enforce this amendment by appropriate legislation.

Until the adoption of the 19th amendment in 1920, the denial of the franchise and the right to vote on account of sex was not prohibited by the Constitution of the United States.

The Government of the United States and the powers of Congress are only such as have been expressly or necessarily impliedly delegated or granted to them by the States.

Part of the debris I refer to is the confusion in the mind of some people about the power or authority of Congress to legislate concerning elections. This may be occasioned by their failing to recognize that the Federal Government does not have the power both of the Government and of the States. A failure to keep in mind that the Federal Government has only such powers as have been delegated to it will result in a failure to recognize the limits of authority of Congress as set and determined by the Constitution.

The failure of anyone to recognize the provisions of the 9th and 10th amendments, will cause a misunderstanding or a lack of appreciation of the limits thereby placed upon Congress in legislating upon the franchise, elections, and voting. The provisions of the 9th and 10th amendments are so familiar that their quotation here is unnecessary.

William E. Borah was one of the great men of the Senate when I started my membership in this body, and he was a power in his political party. He was also a great defender of the South in these so-called civil rights cases.

As I close my remarks on this proposal today, I recall a speech by Senator Borah relating to an antilynching bill, on January 7, 1938. I had recently been Governor of Virginia, and we had enacted the tightest antilynching law in history. There has not been a lynching in Virginia since that law was enacted.

I quote directly from that 1938 speech by Senator Borah, who frequently was referred to as the "lion of Idaho," because so much of of it is applicable to what is being said by proponents of the pending proposal. Senator Borah said:

Everywhere we find a determination to find the right way. The Negro is there. He is there to stay. The South knows that he

is there to stay, that he is a part of the wealth of the South. We in the North may be interested in the Negro politically. We care little about him economically. But he is an indispensable factor in the economic development of the South. They can and will do for him far better without our interference or advice than with it.

Mr. President, the Negro has had a hard road to travel ever since he was given his freedom. A hundred-and-odd years of slavery afforded poor training for citizenship in the most advanced of nations. Almost overnight he went from slavery to take up the obligations of a free man in a free country; but, everything considered, he has done well; his advancement has been marked. Restricted, not by the Constitution of his country or the decisions of its highest courts, but restricted, almost cabined and confined, by the iron laws of society, nevertheless he has made progress. And where has that progress been greatest? In the South. In spite of prejudice, and statements to the contrary, facts and figures show it has been greatest in the South. In the acquisition of property and economic advancement generally the Negro has fared better in the South than elsewhere.

It is true, as is contended here, that at times he has suffered from mob violence in the South, but it is equally true that he has suffered from race riots in the North. But in all things which make for the advancement of the race as a race, the North has no advantage over the South in the story of the advancement of the Negro. We have shown no greater patience, no greater tolerance, no greater ability to deal with this race than have our brothers of the South. And now, because there is the power, because there are the votes, because it is possible to do so, it is proposed to call these great States and these people before the bar of public opinion and, after 70 years of arduous effort on their part, condemn them as unfit and unwilling to deal with this great problem, condemn them for having failed in the essential principle of home government, of home rule. After these 70 years, and after 150 years, taking the Government's history as a whole, we now come to the time when we are asked to say that home rule or local government has broken down in a number of the States of the Union. We call these States and these proud people to judgment before the whole world and spread upon the records of the Congress our condemnation, our judgment that in the most vital things of free government they have failed.

Continuing, Senator Borah said:

Some years ago a great southerner discussed this question, and I cannot refrain from calling attention to some of his language. It seems to me fair, just, and so in accordance with the sentiments of the true patriot that it is worth while for us to stop and hear the voices of those who are wrestling with the problem at home.

Mr. Henry W. Grady said:

"Nothing, sir, but this problem and the suspicions it breeds, hinders a clear understanding and a perfect union. Nothing else stands between us and such love as bound Georgia and Massachusetts at Valley Forge and Yorktown.

"I thank God as heartily as you do that human slavery is gone forever from American soil. But the freeman remains. With him a problem without precedent or parallel. Note its appalling conditions. Two utterly dissimilar races on the same soil—with equal political and civil rights—almost equal in numbers but terribly unequal in intelligence and responsibility. * * * Under these, adverse at every point, we are required to carry these two races in peace and honor to the end.

"Never has such a task been given to mortal stewardship.

"The resolute, clear-headed, broad-minded men of the South * * * wear this problem in their hearts and brains, by day and by night. They realize, as you cannot, what this problem means—what they owe to this kindly and dependent race—the measure of their debt to the world in whose despite they defended and maintained slavery.

"If you insist that they are ruffians, blindly striving with bludgeon and shotgun to plunder and oppress a race, then I shall sacrifice my self-respect and tax your patience in vain. But admit that they are men of common sense and common honesty, wisely modifying an environment they cannot wholly disregard—guiding and controlling as best they can the vicious and irresponsible of either race * * * admit this, and we may reach an understanding without delay."

Is that not true? Can we find anywhere in history a task such as was assigned to the southern people at the close of the Civil War, with slaves for 100 years released, free as they should have been, but given the power to participate in politics without any training and without any experience? It was beyond their capacity, as it would have been beyond the capacity of any race immediately to assume in full, and properly discharge, the duties of citizenship. But those were the conditions which confronted the South, and with which they have been dealing.

Let us admit that the South is dealing with this question as best it can, admit that the men and women of the South are just as patriotic as we are, just as devoted to the principles of the Constitution as we are, just as willing to sacrifice for the success of their communities as we are. Let us give them credit as American citizens, and cooperate with them, sympathize with them, and help them in the solution of their problem, instead of condemning them. We are one people, one nation, and they are entitled to be treated upon that basis.

Before I conclude I wish to read to the Senate an extremely able statement made by Ludwell H. Johnson III, associate professor of history at the College of William and Mary, Williamsburg, Va. It is in the form of a letter addressed to me, as follows:

COLLEGE OF WILLIAM AND MARY,
Williamsburg, Va., April 25, 1962.

Hon. HARRY F. BYRD,
U.S. Senate,
Washington, D.C.

DEAR SIR: The bill now pending before Congress to prescribe voting qualifications in Federal elections is so clearly unconstitutional that it drives one to conclude that the supporters of the bill are either ignorant of the very wording of the Constitution itself, or else are willing, for whatever reason, deliberately to ignore its plain meaning. Undoubtedly, however, the bill's proponents will attempt to find some constitutional basis for it.

What part of the Constitution could possibly give Congress the power to enact such a bill? Section 1 of the 14th amendment is the favorite resort in such cases, but here the bill does not have a leg to stand on. That section prohibits a State from enacting laws that deprive citizens of the United States of their privileges or immunities, or that deny any person equal protection of the laws, or life, liberty, or property without due process of law. This seemingly broad and somewhat vague language might provide some color of constitutionality for the bill, were it not for the fact that section 2 of that same amendment specifically provides a remedy for the disfranchisement of male citizens 21 years of age or older. Section 2 states:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

In other words, if a State refused the vote to male citizens 21 or over, its delegation in the House of Representatives would be reduced accordingly. The purpose of this amendment, proposed in 1866 during Reconstruction, was to present the Southern States with the alternative of giving the Negro the vote, thus insuring a Republican majority in most Southern States, or else having their representation in Congress and their electoral votes reduced. In either case the intended result was a Republican majority in the country at large. This section of the 14th amendment has never been enforced, since it was regarded as having been superseded by the 15th amendment, which prohibited the United States or the States from abridging the right to vote on account of race. Therefore, from internal evidence alone, it is obvious that the bill in question cannot stand on the 14th amendment.

There is other evidence just as incontestable. Article I, section 2, of the Constitution states:

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Mr. ERVIN. Mr. President, will the Senator yield for an observation on this point, with the understanding that the Senator will not lose his privilege to the floor?

Mr. BYRD of Virginia. I yield, with that understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. It is very interesting to note that when the 15th amendment was before Congress, and Congress was considering submitting the 15th amendment to the States, it was proposed to have incorporated in the amendment a provision providing for an educational test, and that the Congress repudiated the effort to incorporate an educational test in the 15th amendment, which under all the circumstances would be construed to show that the refusal of Congress to put an educational test in the amendment indicated that it was intended to exclude it. Yet after a lapse of almost a hundred years, the proponents of the bill are claiming that the 15th amendment contains some kind of indefinable educational test, when the very men who drafted the 15th amendment, by their votes, absolutely refused to put any such thing into the amendment at all. So we have the very queer situation that

that which was rejected, in the words of Scripture, becomes the cornerstone of their structure.

Mr. BYRD of Virginia. I thank the Senator from North Carolina. He is entirely correct.

I continue to quote:

According to the 52d number of the Federalist, which is generally acknowledged to be the most authoritative and penetrating exposition of the purposes and meaning of the Constitution, this section is defended as the best way of regularizing the right of suffrage, as follows:

"It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established, by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments."

In the Constitutional Convention the discussion of this section ("Madison's Notes," Aug. 6–8, 1787) consisted of a disagreement between those who believed that voting qualifications for Representatives (the only Federal election in which the people would vote directly for candidates) should be left entirely to the States, and those who wanted the Constitution to limit suffrage to freeholders. The latter proposal was voted down. Thus the Convention explicitly rejected any interference with State power to establish voting qualifications.

Some advocates of the impending bill may attempt to argue that article I, section 2 of the Constitution has been superseded by the 14th amendment. Such cannot be the case, however, for the 17th amendment providing for the popular election of Senators also specifies that the "electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State legislatures."

In short the following facts are beyond any rational doubt:

1. The framers of the Constitution left the prescription of voting qualifications entirely to the States.

2. Section 1 of the 14th amendment cannot have given Congress the right to set voting qualifications, for the problem of disfranchisement was dealt with explicitly in section 2, which attempted to meet the problem by reducing a State's basis for representation, not by giving the Congress the right in question.

3. Even granting what is inadmissible, that the 14th amendment gave Congress such power, the authority of the States originally granted in 1787 was expressly reaffirmed in the 17th amendment.

The defenders of the pending bill will probably place their main reliance on the 15th amendment, which says that no person shall be denied the vote on account of race, color, or previous condition of servitude, and gives Congress the power to enforce this prohibition by appropriate legislation. It is perfectly clear, however, that the power to prevent disfranchisement on account of race is not the same as the power to prescribe voting qualifications for all citizens. Congress power is confined to the enactment of laws to prevent racial discrimination in the application of such qualifications. It does not have the authority to say what those qualifications shall be, except that they shall not depend on race or sex. The power given to Congress is merely prohibitive; it cannot confer the franchise on anyone.

The meaning of the 15th amendment, like that of the 14th amendment, is also controlled by the 17th amendment, which, as pointed out previously, explicitly leaves the matter of voting qualifications to the States, and uses the identical language of article 1, section 2 of the Constitution.

The clear phrasing of article I, section 2, the meaning ascribed to it by the framers of the Constitution, and subsequent amendments all point to one irresistible fact: Congress never had and has never been given the power to prescribe or prohibit literacy tests for voting in State or Federal elections.

This being the case, no other part of the Constitution can be said to give a power that has been explicitly withheld, but the supporters of the pending bill will probably try to find some ground to stand upon other than the 14th and 15th amendments. They will probably cite article IV, section 4, which says:

"The United States shall guarantee to every State in this Union a Republican Form of Government." And contend that certain literacy tests prevent a government from being republican in form. According to James Madison, often called Father of the Constitution, writing in the 43d Federalist:

"The authority extends no further than to a guarantee of a republican form of government, which supposes a preexisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution."

Many of the States at the time had extensive property qualifications for voting and holding office, yet they were considered to be republican in form. The simple purpose of this section, said Madison, was to protect the States "against aristocratic or monarchical innovations."

It may be argued that our concept of what constitutes a republican form of government has become more equalitarian since the Constitution was framed, and that a government that would qualify as such then would not qualify now. The sponsors of the pending bill evidently believe that requiring a sixth grade education as proof of literacy is consistent with republican government. Would they then say a State law requiring a seventh grade education was not consistent with republican government? Some people are more literate after 4 years of school than others are after 12. If any voting qualifications whatever are permissible under a republican government, then the question becomes a matter of opinion, not principle.

Finally, some may attempt to use article I, section 4, to support the bill. That section states:

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of Chusing Senators."

"Madison's Notes" and the Federalist (Nos. 59–60) show that this provision was intended to prevent the possible crippling or manipulation of the House of Representatives by the rigging or even suspension of elections by ruling factions in the State legislatures. That it never envisioned giving Congress the power to set voting qualifications is made clear by Alexander Hamilton in the 60th Federalist, when he says of article I, section 4:

"The truth is, that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the times, the places, the manner of elections."

Some Members of Congress may say that they are not called upon to pass upon matters of constitutionality, but can leave that problem to the Supreme Court. But the obligation to preserve the Constitution is not transferable. A solemn oath to support the Constitution is required of all State and Federal officers. Such an oath was not imposed lightly or for no reason. The Founding Fathers, being well versed in human nature, knew that occasions would arise when men would be tempted through sympathy, expediency, or ambition to depart from the true intent of the Constitution. It was hoped that the memory of that oath would help them to resist such temptation. There are times, of course, when honest differences of opinion arise as to the meaning of the Constitution. But there are also times when its meaning is perfectly clear, and this is one of those times. The duty of Congress is equally clear. The passage of this bill, even on the pretext of protecting civil rights, would go far toward substituting a government of men for a government of law. Revolutionary patriots fought to secure a government of law, from which the liberties of all Americans are ultimately derived. It is the obligation and privilege of every honest citizen to defend that inheritance.

Yours very truly,

LUDWELL H. JOHNSON III,
Associate Professor of History.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. BYRD of Virginia. I yield.

Mr. SPARKMAN. I have greatly enjoyed listening to the letter just read by the Senator from Virginia and the arguments presented in it. They seem to me to be so logical and so well arranged that they are unanswerable. They bear out a point which it seems to me is likewise unanswerable by those who propose the legislation.

I ask the distinguished Senator from Virginia if he thinks my reasoning is correct: First, at the very beginning of the Constitution, article I, section 2, provides that in the election of Members of the House of Representatives—Senators at that time were selected by the State legislatures—the qualifications for electors shall be the same as the qualifications for the electors of the most numerous branch of the State legislature.

Mr. BYRD of Virginia. The Senator is entirely correct. That has been restated time and time again and has been so held by the courts of the land.

The distinguished Virginian who wrote the letter would be highly complimented by the statement of the Senator from Alabama.

Mr. SPARKMAN. This, to me, is significant: When the proponents of the measure argue the 15th amendment as a consistent basis for the measure sought to be enacted, they overlook, first, the persuasive argument which was presented in the letter just read by the Senator from Virginia, as well as the point brought out by the distinguished Senator from North Carolina [Mr. ERVIN], namely, that in the proposal of what became the 15th amendment, for submission to Congress and then to the States of the Union, the question of including a literacy test was considered but was rejected. In other words, Congress or its committees, or whoever were among the appropriate Members of Congress who handled the legislation, declined to include a literacy test or an educational test in the 15th amendment.

Mr. BYRD of Virginia. That is correct.

Mr. SPARKMAN. Another point which seems to me to be unanswerable is that when the 17th amendment was adopted, the amendment which provides for the election of Senators by direct vote of the people, the identical language of article I, section 2, of the Constitution, was repeated, and that was subsequent to the adoption of the 15th amendment. So if the argument is made that the 15th amendment changed the language that was contained in article I, section 2, there is no answer to the fact that the 17th amendment used that identical language again.

Mr. BYRD of Virginia. That is conclusive proof of the intent of the framers of the Constitution.

Mr. SPARKMAN. The Senator from Virginia is correct. I do not see how the contention can be otherwise. In addition, there are numerous Supreme Court decisions which pass on one phase or another of this proposition, all of them capped by the unanimous decision 3 or 4 years ago, holding that the setting of qualifications for voters is a power lodged in the States and not in any sense in the Central Government of the United States. Is not that correct?

Mr. BYRD of Virginia. The Senator is correct.

Mr. SPARKMAN. The Senator from Virginia has presented a very useful and very fine argument.

I may say that I was prepared to speak, following his remarks. However, I understand that the leadership is about ready to have the Senate adjourn for the day. Furthermore, my entire argument, as I view the pending measure, is really set forth in the very few comments I have made, all of which relate to points which have been brought out by the distinguished Senator from Virginia.

Mr. BYRD of Virginia. I thank the Senator from Alabama very much.

ADJOURNMENT

Mr. BYRD of Virginia. Mr. President, in accordance with the order previously entered, I move that the Senate now stand adjourned until tomorrow, at noon.

The motion was agreed to; and (at 4 o'clock and 59 minutes p.m.) the Senate adjourned, under the order previously entered, until tomorrow, Tuesday, May 8, 1962, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate May 7, 1962:

DIPLOMATIC AND FOREIGN SERVICE

William P. Mahoney, Jr., of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

DEPARTMENT OF STATE

Lucius D. Battle, of Florida, to be an Assistant Secretary of State, vice Philip H. Coombs.

SECURITIES AND EXCHANGE COMMISSION

Byron D. Woodside, of Virginia, to be a member of the Securities and Exchange Commission for the term of 5 years expiring June 5, 1967. (Reappointment.)

EXTENSIONS OF REMARKS

Agriculture Legislation

EXTENSION OF REMARKS
OF
HON. ALEXANDER WILEY
OF WISCONSIN
IN THE SENATE OF THE UNITED STATES
Monday, May 7, 1962

Mr. WILEY. Mr. President, in a weekend address over Wisconsin radio stations, I was privileged to discuss the legislative outlook on legislation relating to agriculture.

I ask unanimous consent to have excerpts of my address printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

WILEY EXPECTS NO MIRACLE-WORKING LEGISLATION IN AGRICULTURE

As yet, the administration, the Congress, and representatives of farmers and farm organizations, have not been able to get together on a mutually agreeable plan for agriculture—one that would: find ways to more favorably adjust production in relation to consumption and utilization—and by so doing, diminish the stockpiles, and make dramatic improvements in the farmer's pocketbook.

Consequently, the outlook—once again—is for a piecemeal revision of farm laws.

Following rough treatment of the administration's recommendations earlier this year, the Agriculture Committee has now reported a bill, S. 2786, to the Senate.

By no means a miracle worker the recommendations generally include extension, with some revisions, of a variety of existing programs.

The future of the Nation—thanks to the high productivity of the farmer—can look forward confidently to a good supply of food. Accordingly to predictions, our farms, by 1980, despite a 65 million increase in population—will produce enough food, with 50 million fewer acres. With such a long-range outlook, there is, then, a requirement to take a new look at our land-use policies.

With this in mind, the committee, reflecting some of the administration's recommendations, proposes to encourage a changeover of land use—particularly for recreation—as follows: The Secretary of Agriculture would be authorized to enter into long-term agreements (not to exceed 15 years) to provide assistance to farmers in changing over croplands to conservation and development of soil, water, forest, wildlife, and recreational resources; or to devote such land to other nonagricultural purposes; loans would be available under the Bankhead-Jones Act to States and local public agencies to carry out conservation programs; under the Watershed Act, payments would be available for the cost of fish, wildlife, and recreational improvements involving land easements, rights of way and minimum basic facilities; under the Farm Home Administration, loans would also be available for establishment of recreational facilities.

EXTENSION OF PUBLIC LAW 480

Attempting to stimulate greater use of surplus agricultural commodities, the proposed bill would also aim toward: (1) Increasing the sale of surplus products abroad for dollars, through long-term contracts; and the extension of credit for the purchase of such commodities; and (2) provide the Secretary of Agriculture authority to enter into supply agreements with private trade interests—under the same conditions as government-to-government sales agreements.

EXTENSION OF FEED GRAIN PROGRAM

A 1-year extension of the feed grain program—an effort to reduce the supply of corn, oats, and barley—also is a major feature of the committee bill.

NEEDED: EXPANDED DAIRY RESEARCH

Significant in the committee bill, too, is a recommendation for establishing an Agricultural Research and Industrial Use Administration within the Department of Agriculture. The purpose would be to carry out expanded research programs on industrial uses of agricultural commodities.

The goal, I believe, is meritorious; and, incidentally, it gives support to a bill, S. 2414, which I introduced earlier this session. The Wiley bill—if enacted, as I feel it should be—would establish a dairy research laboratory at Madison, Wis.—the heart of America's dairyland to carry on research for finding industrial-commercial uses for milk and other dairy products.

CONCLUSION

This, then, is a brief review of major farm legislation at this stage of its consideration in Congress. The Senate, and the House of Representatives, will, in all probability, work these over carefully and thoroughly.

Recognizing the need also for farmer evaluations, I would be happy to hear from you—either for or against these committee recommendations—that will be coming up for consideration in the Senate.

Fifty-four to One Are Very Poor Odds in Any Game

EXTENSION OF REMARKS
OF
HON. JAMES B. UTT
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, May 7, 1962

Mr. UTT. Mr. Speaker, the following is a list of 54 member countries of the United Nations together with their population figures which total 181 million people. These 54 countries have 54 votes in the United Nations while the United States with a greater population has but 1 vote. These nations could have the power of economic and military control over the United States. Fifty-four to one are very poor odds in any game, especially when this country is in a life and death struggle with communism. The United States is entitled to better odds than this. It is very obvious that most of these countries are not interested in peace but only in economic gain. This was evidenced when Russia vetoed a resolution to condemn India for its military aggression against Goa, a Portuguese enclave, as Ambassa-